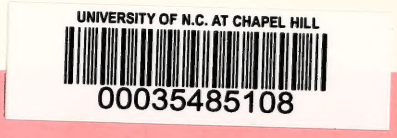
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STATE OF NORTH CAROLINA

1975

Session Laws and Resolutions

PASSED BY THE

1975 GENERAL ASSEMBLY

AT ITS

FIRST SESSION

HELD IN THE CITY OF RALEIGH

BEGINNING ON

WEDNESDAY, THE FIFTEENTH DAY OF JANUARY, A.D. 1975

ISSUED BY
SECRETARY OF STATE THAD EURE

PUBLISHED BY AUTHORITY

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STATE OF NORTH CAROLINA

PRESIDING OFFICERS OF THE GENERAL ASSEMBLY 1975

JAMES B. HUNT, JR. .....President of the Senate.....Wilson

JAMES C. GREEN .....Speaker of the House of Representatives..Bladen

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EXECUTIVE DEPARTMENT

(Offices established by the Constitution, filled by election, and constituting the Council of State)

*JAMES E. HOLSHOUSER, JR. (R)	Governor	Watauga
*JAMES B. HUNT, JR.	Lt. Governor	Wilson
*THAD EURE	Secretary of State	Hertford
HENRY L. BRIDGES	Auditor	Guilford
EDWIN GILL	Treasurer	Scotland
CRAIG PHILLIPS	Superintendent of Public Instruction	Guilford
*RUFUS L. EDMISTEN	Attorney General	Watauga
JAMES A. GRAHAM	Commissioner of Agriculture	Rowan
W. C. CREEL	Commissioner of Labor	Wake
JOHN RANDOLPH INGRAM	Commissioner of Insurance	Randolph

*Renders Direct Services to the General Assembly.

The political affiliation of legislators and members of the Council of State is Democratic unless designated Republican by the abbreviation (R).

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GENERAL ASSEMBLY 1975

SENATE OFFICERS

Name	*Position*	*Address*
James B. Hunt, Jr.	President	Lucama
John T. Henley	President pro tempore	Hope Mills
Roy Rowe	Principal Clerk	Raleigh
LeRoy Clark	Reading Clerk	Wendell
Vinson Bridgers, Jr.	Sergeant-at-Arms	Raleigh

SENATORS

District	Name	County	Address
1	Melvin R. Daniels, Jr.	Pasquotank	Elizabeth City
1	Joseph J. Harrington	Bertie	Lewiston
2	D. Livingstone Stallings	Craven	New Bern
3	William D. Mills	Onslow	Maysville
4	William Grey Smith	New Hanover	Wilmington
5	Harold W. Hardison	Lenoir	Deep Run
6	Julian R. Allsbrook	Halifax	Roanoke Rapids
6	Vernon E. White	Pitt	Winterville
7	Dallas L. Alford, Jr.	Nash	Rocky Mount
7	J. Russell Kirby	Wilson	Wilson
8	Thomas E. Strickland	Wayne	Goldsboro
9	Edward Renfrow	Johnston	Smithfield
10	John T. Henley	Cumberland	Hope Mills
10	Glenn R. Jernigan	Cumberland	Fayetteville
11	Edd Nye	Bladen	Elizabethtown
12	Luther J. Britt, Jr.	Robeson	Lumberton
13	Kenneth C. Royall, Jr.	Durham	Durham
13	Willis P. Whichard	Durham	Durham
14	Bob L. Barker	Wake	Raleigh
14	William W. Staton	Lee	Sanford
14	John W. Winters	Wake	Raleigh
15	George W. Marion, Jr.	Surry	Dobson
15	Wesley D. Webster	Rockingham	Madison
16	Charles E. Vickery	Orange	Chapel Hill
16	Russell Walker	Randolph	Asheboro
17	James B. Garrison	Stanly	Albemarle
17	Mrs. Mary Horne Odom	Scotland	Wagram
18	Ralph H. Scott	Alamance	Haw River
19	Mrs. Katherine H. Sebo	Guilford	Greensboro
19	Lynwood Smith	Guilford	High Point
19	McNeill Smith	Guilford	Greensboro
20	E. Lawrence Davis	Forsyth	Winston-Salem
20	Carl D. Totherow	Forsyth	Winston-Salem
21	Jack Childers	Davidson	Lexington
21	Thomas H. Suddarth	Davidson	Lexington
22	Fred D. Alexander	Mecklenburg	Charlotte
22	Cy N. Bahakel	Mecklenburg	Matthews
22	James D. McDuffie	Mecklenburg	Charlotte
22	Herman A. Moore	Mecklenburg	Charlotte
23	Bobby Lee Combs	Catawba	Hickory
23	Pleas Lackey	Alexander	Hiddenite
24	Donald R. Kincaid (R)	Caldwell	Lenoir
24	J. Wade Walsh	Caldwell	Lenoir
25	Ollie Harris	Cleveland	Kings Mountain
25	William K. Mauney, Jr.	Cleveland	Kings Mountain
25	Marshall A. Rauch	Gaston	Gastonia
26	I. C. Crawford	Buncombe	Asheville
26	Lamar Gudger	Buncombe	Asheville
27	Cecil J. Hill	Transylvania	Brevard
27	Joe H. Palmer	Haywood	Clyde

HOUSE OFFICERS

Name	*Position*	*Address*
James C. Green	Speaker	Clarkton
C. Kitchin Josey	Speaker pro tempore	Scotland Neck
Mrs. Grace A. Collins	Principal Clerk	Fuquay-Varina
Sam J. Burrow, Jr.	Reading Clerk	Asheboro
Archie T. Lane	Sergeant-at-Arms	Hertford

REPRESENTATIVES

District	Name	County	Address
1	Vernon G. James	Pasquotank	Elizabeth City
1	W. Stanford White	Dare	Manns Harbor
2	Howard B. Chapin	Beaufort	Washington
3	Chris S. Barker, Jr.	Craven	New Bern
3	Joe L. Bright	Craven	Vanceboro
3	Daniel T. Lilley	Lenoir	Kinston
4	Mrs. Wilda Hurst	Onslow	Hubert
4	Ronald Earl Mason	Carteret	Beaufort
4	Hugh C. Sandlin	Onslow	Jacksonville
5	Roberts H. Jernigan, Jr.	Hertford	Ahoskie
5	J. Guy Revelle, Sr.	Northampton	Conway
6	George P. Cullipher	Martin	Williamston
6	C. Kitchin Josey	Halifax	Scotland Neck
7	Allen C. Barbee	Nash	Spring Hope
7	A. Hartwell Campbell	Wilson	Wilson
7	John Ed Davenport	Nash	Nashville
7	Larry P. Eagles	Edgecombe	Tarboro
8	Sam D. Bundy	Pitt	Farmville
8	H. Horton Rountree	Pitt	Greenville
9	Henson P. Barnes	Wayne	Goldsboro
9	Mrs. John B. Chase	Wayne	Eureka
10	Thomas J. Baker	Duplin	Wallace
11	Allen C. Ward	Brunswick	Shallotte
12	S. Thomas Rhodes (R)	New Hanover	Wilmington
12	Benjamin D. Schwartz	New Hanover	Wilmington
13	Thomas W. Ellis, Jr.	Vance	Henderson
13	Bobby W. Rogers	Vance	Henderson
13	William T. Watkins	Granville	Oxford
14	Jack M. Gardner	Johnston	Smithfield
14	Barney Paul Woodard	Johnston	Princeton
15	Allen Adams	Wake	Raleigh
15	Mrs. Ruth E. Cook	Wake	Raleigh
15	William A. Creech	Wake	Raleigh
15	Robert L. Farmer	Wake	Raleigh
15	Joseph E. Johnson	Wake	Raleigh
15	Wade M. Smith	Wake	Raleigh
16	Mrs. Patricia Griffin	Durham	Durham
16	H. M. Michaux, Jr.	Durham	Durham
16	George M. Miller, Jr.	Durham	Durham
17	Edward S. Holmes	Chatham	Pittsboro
17	Mrs. Patricia S. Hunt	Orange	Chapel Hill
18	Carson Gregory	Harnett	Angier
18	James L. Love	Lee	Sanford
19	James C. Green	Bladen	Clarkton
19	R. C. Soles, Jr.	Columbus	Tabor City
19	Richard Wright	Columbus	Tabor City
20	R. D. Beard	Cumberland	Fayetteville
20	George W. Breece	Cumberland	Fayetteville
20	Charles Holt	Cumberland	Fayetteville
20	Hector E. Ray	Cumberland	Fayetteville
20	Mrs. Lura Tally	Cumberland	Fayetteville
21	Joy J. Johnson	Robeson	Fairmont
21	Henry Ward Oxendine	Robeson	Pembroke
21	David R. Parnell	Robeson	Parkton
22	David M. Blackwell	Rockingham	Reidsville
22	W. S. Harris, Jr.	Alamance	Graham
22	John M. Jordan	Alamance	Saxapahaw
22	James E. Long	Alamance	Burlington
23	Henry E. Frye	Guilford	Greensboro
23	Thomas O. Gilmore	Guilford	Greensboro
23	Leo Heer	Guilford	High Point
23	Charles W. Phillips	Guilford	Greensboro
23	Thomas B. Sawyer	Guilford	Greensboro
23	W. Marcus Short	Guilford	Greensboro
23	Charles E. Webb	Guilford	Greensboro
24	Gilbert R. Davis	Randolph	Randleman
24	J. T. Pugh, Jr.	Randolph	Asheboro

District	Name	County	Address
25	T. Clyde Auman	Moore	West End
26	Foyle Hightower, Jr.	Anson	Wadesboro
27	Thomas B. Hunter	Richmond	Rockingham
28	Porter C. Collins, Jr.	Alleghany	Laurel Springs
28	David H. Diamont	Surry	Pilot Mountain
28	J. Worth Gentry	Stokes	King
29	Judson David DeRamus, Jr.	Forsyth	Winston-Salem
29	Richard C. Erwin	Forsyth	Winston-Salem
29	Fred S. Hutchins, Jr. (R)	Forsyth	Winston-Salem
29	Ned R. Smith	Forsyth	Winston-Salem
29	Mrs. Margaret Tennille	Forsyth	Winston-Salem
30	Peter W. Hairston	Davie	Advance
30	Larry E. Leonard	Davidson	Thomasville
30	John Varner	Davidson	Lexington
31	Robie L. Nash	Rowan	Salisbury
31	A. Neal Smith	Rowan	Woodleaf
32	Richard Lane Brown, III	Stanly	Norwood
33	Aaron W. Plyler	Union	Monroe
33	Dwight W. Quinn	Cabarrus	Kannapolis
33	Art W. Thomas	Cabarrus	Concord
34	James H. Edwards	Caldwell	Granite Falls
34	George M. Holmes (R)	Yadkin	Hamptonville
34	Ralph Prestwood	Caldwell	Lenoir
35	J. P. Huskins	Iredell	Statesville
35	William H. McMillan	Iredell	Statesville
36	Mrs. Marilyn R. Bissell (R)	Mecklenburg	Charlotte
36	Laurence A. Cobb (R)	Mecklenburg	Charlotte
36	Mrs. Jo Graham Foster	Mecklenburg	Charlotte
36	H. Parks Helms	Mecklenburg	Charlotte
36	W. Craig Lawing	Mecklenburg	Charlotte
36	Mrs. Carolyn Mathis (R)	Mecklenburg	Charlotte
36	LeRoy P. Spoon, Jr. (R)	Mecklenburg	Charlotte
36	Ben Tison	Mecklenburg	Charlotte
37	T. Cass Ballenger (R)	Catawba	Hickory
37	Mrs. Frances E. Setzer	Catawba	Newton
38	E. Graham Bell	Gaston	Gastonia
38	David W. Bumgardner, Jr.	Gaston	Belmont
38	John R. Gamble, Jr.	Lincoln	Lincolnton
38	Carl J. Stewart, Jr.	Gaston	Gastonia
39	Willis H. Lachot, Jr.	Burke	Morganton
39	Mrs. Myrtle E. Wiseman	Avery	Spruce Pine
40	Robert Z. Falls	Cleveland	Shelby
40	John J. Hunt	Cleveland	Lattimore
40	Robert A. Jones	Rutherford	Forest City
41	Glenn A. Morris	McDowell	Marion
42	Fred R. Dorsey (R)	Henderson	East Flat Rock
43	Claude DeBruhl	Buncombe	Candler
43	Herbert L. Hyde	Buncombe	Asheville
43	Mrs. Mary C. Nesbitt	Buncombe	Asheville
43	John S. Stevens	Buncombe	Asheville
44	Ernest B. Messer	Haywood	Canton
44	Liston B. Ramsey	Madison	Marshall
45	Jeff H. Enloe, Jr.	Macon	Franklin

LEGISLATIVE SERVICES COMMISSION

Senator John T. Henley, *Co-Chairman*
Speaker James C. Green, *Co-Chairman*

Sen. James B. Garrison	Rep. Claude DeBruhl
Sen. Harold W. Hardison	Rep. Kitchin Josey
Sen. Joseph J. Harrington	Rep. Craig Lawing
Sen. Kenneth C. Royall, Jr.	Rep. Liston B. Ramsey
Sen. Ralph Scott	Rep. Art Thomas
Sen. Wesley D. Webster	Rep. William T. Watkins

LEGISLATIVE SERVICES STAFF

Clyde L. Ball.....Legislative Services Officer
William H. Potter, Jr.....Director of Research
Mercer Doty.....Director of Fiscal Research
Brooks W. Poole.....Legislative Building Superintendent

CONSTITUTION
OF THE
State of North Carolina

PREAMBLE

We, the people of the State of North Carolina, grateful to Almighty God, the Sovereign Ruler of Nations, for the preservation of the American Union and the existence of our civil, political and religious liberties, and acknowledging our dependence upon Him for the continuance of those blessings to us and our posterity, do, for the more certain security thereof and for the better government of this State, ordain and establish this Constitution.

ARTICLE I

DECLARATION OF RIGHTS

That the great, general, and essential principles of liberty and free government may be recognized and established, and that the relations of this State to the Union and government of the United States and those of the people of this State to the rest of the American people may be defined and affirmed, we do declare that:

SECTION 1. *The equality and rights of persons.* We hold it to be self-evident that all persons are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, the enjoyment of the fruits of their own labor, and the pursuit of happiness.

SEC. 2. *Sovereignty of the people.* All political power is vested in and derived from the people; all government of right originates from the people, is founded upon their will only, and is instituted solely for the good of the whole.

SEC. 3. *Internal government of the State.* The people of this State have the inherent, sole, and exclusive right of regulating the internal government and police thereof, and of altering or abolishing their Constitution and form of government whenever it may be necessary to their safety and happiness; but every such right shall be exercised in pursuance of law and consistently with the Constitution of the United States.

SEC. 4. *Secession prohibited.* This State shall ever remain a member of the American Union; the people thereof are part of the American nation; there is no right on the part of this State to secede; and all attempts, from whatever source or upon whatever pretext, to dissolve this Union or to sever this Nation, shall be resisted with the whole power of the State.

SEC. 5. *Allegiance to the United States.* Every citizen of this State owes paramount allegiance to the Constitution and government of the United States, and no law or ordinance of the State in contravention or subversion thereof can have any binding force.

SEC. 6. *Separation of powers.* The legislative, executive, and supreme judicial powers of the State government shall be forever separate and distinct from each other.

SEC. 7. *Suspending laws.* All power of suspending laws or the execution of laws by any authority, without the consent of the representatives of the people, is injurious to their rights and shall not be exercised.

SEC. 8. *Representation and taxation.* The people of this State shall not be taxed or made subject to the payment of any impost or duty without the consent of themselves or their representatives in the General Assembly, freely given.

SEC. 9. *Frequent elections.* For redress of grievances and for amending and strengthening the laws, elections shall be often held.

SEC. 10. *Free elections.* All elections shall be free.

SEC. 11. *Property qualifications.* As political rights and privileges are not dependent upon or modified by property, no property qualification shall affect the right to vote or hold office.

SEC. 12. *Right of assembly and petition.* The people have a right to assemble together to consult for their common good, to instruct their representatives, and to apply to the General Assembly for redress of grievances; but secret political societies are dangerous to the liberties of a free people and shall not be tolerated.

SEC. 13. *Religious liberty.* All persons have a natural and inalienable right to worship Almighty God according to the dictates of their own consciences, and no human authority shall, in any case whatever, control or interfere with the rights of conscience.

SEC. 14. *Freedom of speech and press.* Freedom of speech and of the press are two of the great bulwarks of liberty and therefore shall never be restrained, but every person shall be held responsible for their abuse.

SEC. 15. *Education.* The people have a right to the privilege of education, and it is the duty of the State to guard and maintain that right.

SEC. 16. *Ex post facto laws.* Retrospective laws, punishing acts committed before the existence of such laws and by them only declared criminal, are oppressive, unjust, and incompatible with liberty, and therefore no ex post facto law shall be enacted. No law taxing retrospectively sales, purchases, or other acts previously done shall be enacted.

SEC. 17. *Slavery and involuntary servitude.* Slavery is forever prohibited. Involuntary servitude, except as a punishment for crime whereof the parties have been adjudged guilty, is forever prohibited.

SEC. 18. *Courts shall be open.* All courts shall be open; every person for an injury done him in his lands, goods, person, or reputation shall have remedy by due course of law; and right and justice shall be administered without favor, denial, or delay.

SEC. 19. *Law of the land; equal protection of the laws.* No person shall be taken, imprisoned, or disseized of his freehold, liberties, or privileges, or outlawed, or exiled, or in any manner deprived of his life, liberty, or property, but by the law of the land. No person shall be denied the equal protection of the laws; nor shall any person be subjected to discrimination by the State because of race, color, religion, or national origin.

SEC. 20. *General warrants.* General warrants, whereby any officer or other person may be commanded to search suspected places without evidence of the act committed, or to seize any person or persons not named, whose offense is not particularly described and supported by evidence, are dangerous to liberty and shall not be granted.

SEC. 21. *Inquiry into restraints on liberty.* Every person restrained of his liberty is entitled to a remedy to inquire into the lawfulness thereof, and to remove the restraint if unlawful, and that remedy shall not be denied or delayed. The privilege of the writ of habeas corpus shall not be suspended.

SEC. 22. *Modes of prosecution.* Except in misdemeanor cases initiated in the District Court Division, no person shall be put to answer any criminal charge but by indictment, presentment, or impeachment. But any person, when represented by counsel, may, under such regulations as the General Assembly shall prescribe, waive indictment in noncapital cases.

SEC. 23. *Rights of accused.* In all criminal prosecutions, every person charged with crime has the right to be informed of the accusation and to confront the accusers and witnesses with other testimony, and to have counsel for defense, and not be compelled to give self-incriminating evidence, or to pay costs, jail fees, or necessary witness fees of the defense, unless found guilty.

SEC. 24. *Right of jury trial in criminal cases.* No person shall be convicted of any crime but by the unanimous verdict of a jury in open court. The General Assembly may, however, provide for other means of trial for misdemeanors, with the right of appeal for trial de novo.

SEC. 25. *Right of jury trial in civil cases.* In all controversies at law respecting property, the ancient mode of trial by jury is one of the best securities of the rights of the people, and shall remain sacred and inviolable.

SEC. 26. *Jury service.* No person shall be excluded from jury service on account of sex, race, color, religion, or national origin.

SEC. 27. *Bail, fines, and punishments.* Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishments inflicted.

SEC. 28. *Imprisonment for debt.* There shall be no imprisonment for debt in this State, except in cases of fraud.

SEC. 29. *Treason against the State.* Treason against the State shall consist only of levying war against it or adhering to its enemies by giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

No conviction of treason or attainder shall work corruption of blood or forfeiture.

SEC. 30. *Militia and the right to bear arms.* A well regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed; and, as standing armies in time of peace are dangerous to liberty, they shall not be maintained, and the military shall be kept under strict subordination to, and governed by, the civil power. Nothing herein shall justify the practice of carrying concealed weapons, or prevent the General Assembly from enacting penal statutes against that practice.

SEC. 31. *Quartering of soldiers.* No soldier shall in time of peace be quartered in any house without the consent of the owner, nor in time of war but in a manner prescribed by law.

SEC. 32. *Exclusive emoluments.* No person or set of persons is entitled to exclusive or separate emoluments or privileges from the community but in consideration of public services.

SEC. 33. *Hereditary emoluments and honors.* No hereditary emoluments, privileges, or honors shall be granted or conferred in this State.

SEC. 34. *Perpetuities and monopolies.* Perpetuities and monopolies are contrary to the genius of a free state and shall not be allowed.

SEC. 35. *Recurrence to fundamental principles.* A frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty.

SEC. 36. *Other rights of the people.* The enumeration of rights in this Article shall not be construed to impair or deny others retained by the people.

ARTICLE II

LEGISLATIVE

SECTION 1. *Legislative power.* The legislative power of the State shall be vested in the General Assembly, which shall consist of a Senate and a House of Representatives.

SEC. 2. *Number of Senators.* The Senate shall be composed of 50 Senators, biennially chosen by ballot.

SEC. 3. *Senate districts; apportionment of Senators.* The Senators shall be elected from districts. The General Assembly, at the first regular session convening after the return of every decennial census of population taken by order of Congress, shall revise the senate districts and the apportionment of Senators among those districts, subject to the following requirements:

(1) Each Senator shall represent, as nearly as may be, an equal number of inhabitants, the number of inhabitants that each Senator represents being determined for this purpose by dividing the population of the district that he represents by the number of Senators apportioned to that district;

(2) Each senate district shall at all times consist of contiguous territory;

(3) No county shall be divided in the formation of a senate district;

(4) When established, the senate districts and the apportionment of Senators shall remain unaltered until the return of another decennial census of population taken by order of Congress.

SEC. 4. *Number of Representatives.* The House of Representatives shall be composed of 120 Representatives, biennially chosen by ballot.

SEC. 5. *Representative districts; apportionment of Representatives.* The Representatives shall be elected from districts. The General Assembly, at the first regular session convening after the return of every decennial census of population taken by order of Congress, shall revise the representative districts and the apportionment of Representatives among those districts, subject to the following requirements:

(1) Each Representative shall represent, as nearly as may be, an equal number of inhabitants, the number of inhabitants that each Representative represents being determined for this purpose by dividing the population of the district that he represents by the number of Representatives apportioned to that district;

(2) Each representative district shall at all times consist of contiguous territory;

(3) No county shall be divided in the formation of a representative district.

(4) When established, the representative districts and the apportionment of Representatives shall remain unaltered until the return of another decennial census of population taken by order of Congress.

SEC. 6. *Qualifications for Senator.* Each Senator, at the time of his election, shall be not less than 25 years of age, shall be a qualified voter of the State, and shall have resided in the State as a citizen for two years and in the district for which he is chosen for one year immediately preceding his election.

SEC. 7. *Qualifications for Representative.* Each Representative, at the time of his election, shall be a qualified voter of the State, and shall have resided in the district for which he is chosen for one year immediately preceding his election.

SEC. 8. *Elections.* The election for members of the General Assembly shall be held for the respective districts in 1972 and every two years thereafter, at the places and on the day prescribed by law.

SEC. 9. *Term of office.* The term of office of Senators and Representatives shall commence at the time of their election.

SEC. 10. *Vacancies.* Every vacancy occurring in the membership of the General Assembly by reason of death, resignation, or other cause shall be filled in the manner prescribed by law.

SEC. 11. *Sessions.*

(1) *Regular sessions.* The General Assembly shall meet in regular session in 1973 and every two years thereafter on the day prescribed by law. Neither house shall proceed upon public business unless a majority of all of its members are actually present.

(2) *Extra sessions on legislative call.* The President of the Senate and the Speaker of the House of Representatives shall convene the General Assembly in extra session by their joint proclamation upon receipt by the President of the Senate of written requests therefor signed by three-fifths of all the members of the Senate and upon receipt by the Speaker of the House of Representatives of written requests therefor signed by three-fifths of all the members of the House of Representatives.

SEC. 12. *Oath of members.* Each member of the General Assembly, before taking his seat, shall take an oath or affirmation that he will support the Constitution and laws of the United States and the Constitution of the State of North Carolina, and will faithfully discharge his duty as a member of the Senate or House of Representatives.

SEC. 13. *President of the Senate.* The Lieutenant Governor shall be President of the Senate and shall preside over the Senate, but shall have no vote unless the Senate is equally divided.

SEC. 14. *Other officers of the Senate.*

(1) *President Pro Tempore — succession to presidency.* The Senate shall elect from its membership a President Pro Tempore, who shall become President of the Senate upon the failure of the Lieutenant Governor-elect to qualify, or upon succession by the Lieutenant Governor to the office of Governor, or upon the death, resignation, or removal from office of the President of the Senate, and who shall serve until the expiration of his term of office as Senator.

(2) *President Pro Tempore — temporary succession.* During the physical or mental incapacity of the President of the Senate to perform the duties of his office, or during the absence of the President of the Senate, the President Pro Tempore shall preside over the Senate.

(3) *Other Officers.* The Senate shall elect its other officers.

SEC. 15. *Officers of the House of Representatives.* The House of Representatives shall elect its Speaker and other officers.

SEC. 16. *Compensation and allowances.* The members and officers of the General Assembly shall receive for their services the compensation and allowances prescribed by law. An increase in the compensation or allowances of members shall become effective at the beginning of the next regular session of the General Assembly following the session at which it was enacted.

SEC. 17. *Journals.* Each house shall keep a journal of its proceedings, which shall be printed and made public immediately after the adjournment of the General Assembly.

SEC. 18. *Protests.* Any member of either house may dissent from and protest against any act or resolve which he may think injurious to the public or to any individual, and have the reasons of his dissent entered on the journal.

SEC. 19. *Record votes.* Upon motion made in either house and seconded by one fifth of the members present, the yeas and nays upon any question shall be taken and entered upon the journal.

SEC. 20. *Powers of the General Assembly.* Each house shall be judge of the qualifications and elections of its own members, shall sit upon its own adjournment from day to day, and shall prepare bills to be enacted into laws. The two houses may jointly adjourn to any future day or other place. Either house may, of its own motion, adjourn for a period not in excess of three days.

SEC. 21. *Style of the acts.* The style of the acts shall be: "The General Assembly of North Carolina enacts:".

SEC. 22. *Action on bills.* All bills and resolutions of a legislative nature shall be read three times in each house before they become laws, and shall be signed by the presiding officers of both houses.

SEC. 23. *Revenue bills.* No law shall be enacted to raise money on the credit of the State, or to pledge the faith of the State directly or indirectly for the payment of any debt, or to impose any tax upon the people of the State, or to allow the counties, cities, or towns to do so, unless the bill for the purpose shall have been read three several times in each house of the General Assembly and passed three several readings, which readings shall have been on three different days, and shall have been agreed to by each house respectively, and unless the yeas and nays on the second and third readings of the bill shall have been entered on the journal.

SEC. 24. *Limitations on local, private, and special legislation.*

(1) *Prohibited subjects.* The General Assembly shall not enact any local, private, or special act or resolution:

(a) Relating to health, sanitation, and the abatement of nuisances;

(b) Changing the names of cities, towns, and townships;

(c) Authorizing the laying out, opening, altering, maintaining, or discontinuing of highways, streets, or alleys;

(d) Relating to ferries or bridges;

(e) Relating to non-navigable streams;

(f) Relating to cemeteries;

(g) Relating to the pay of jurors;

(h) Erecting new townships, or changing township lines, or establishing or changing the lines of school districts;

(i) Remitting fines, penalties, and forfeitures, or refunding moneys legally paid into the public treasury;

(j) Regulating labor, trade, mining, or manufacturing;

(k) Extending the time for the levy or collection of taxes or otherwise relieving any collector of taxes from the due performance of his official duties or his sureties from liability;

(l) Giving effect to informal wills and deeds;

(m) Granting a divorce or securing alimony in any individual case;

(n) Altering the name of any person, or legitimating any person not born in lawful wedlock, or restoring to the rights of citizenship any person convicted of a felony.

(2) *Repeals.* Nor shall the General Assembly enact any such local, private, or special act by partial repeal of a general law; but the General Assembly may at any time repeal local, private, or special laws enacted by it.

(3) *Prohibited acts void.* Any local, private, or special act or resolution enacted in violation of the provisions of this Section shall be void.

(4) *General laws.* The General Assembly may enact general laws regulating the matters set out in this Section.

ARTICLE III

EXECUTIVE

SECTION 1. *Executive power.* The executive power of the State shall be vested in the Governor.

SEC. 2. *Governor and Lieutenant Governor: election, term, and qualifications.*

(1) *Election and term.* The Governor and Lieutenant Governor shall be elected by the qualified voters of the State in 1972 and every four years thereafter, at the same time and places as members of the General Assembly are elected. Their term of office shall be four years and shall commence on the first day of January next after their election and continue until their successors are elected and qualified.

(2) *Qualifications.* No person shall be eligible for election to the office of Governor or Lieutenant Governor unless, at the time of his election, he shall have attained the age of 30 years and shall have been a citizen of the United States for five years and a resident of this State for two years immediately preceding his election. No person elected to either of these two offices shall be eligible for election to the next succeeding term of the same office.

SEC. 3. *Succession to office of Governor.*

(1) *Succession as Governor.* The Lieutenant Governor-elect shall become Governor upon the failure of the Governor-elect to qualify. The Lieutenant

Governor shall become Governor upon the death, resignation, or removal from office of the Governor. The further order of succession to the office of Governor shall be prescribed by law. A successor shall serve for the remainder of the term of the Governor whom he succeeds and until a new Governor is elected and qualified.

(2) *Succession as Acting Governor.* During the absence of the Governor from the State, or during the physical or mental incapacity of the Governor to perform the duties of his office, the Lieutenant Governor shall be Acting Governor. The further order of succession as Acting Governor shall be prescribed by law.

(3) *Physical incapacity.* The Governor may, by a written statement filed with the Attorney General, declare that he is physically incapable of performing the duties of his office, and may thereafter in the same manner declare that he is physically capable of performing the duties of his office.

(4) *Mental incapacity.* The mental incapacity of the Governor to perform the duties of his office shall be determined only by joint resolution adopted by a vote of two-thirds of all the members of each house of the General Assembly. Thereafter, the mental capacity of the Governor to perform the duties of his office shall be determined only by joint resolution adopted by a vote of a majority of all the members of each house of the General Assembly. In all cases, the General Assembly shall give the Governor such notice as it may deem proper and shall allow him an opportunity to be heard before a joint session of the General Assembly before it takes final action. When the General Assembly is not in session, the Council of State, a majority of its members concurring, may convene it in extra session for the purpose of proceeding under this paragraph.

(5) *Impeachment.* Removal of the Governor from office for any other cause shall be by impeachment.

SEC. 4. *Oath of office for Governor.* The Governor, before entering upon the duties of his office, shall, before any Justice of the Supreme Court, take an oath or affirmation that he will support the Constitution and laws of the United States and of the State of North Carolina, and that he will faithfully perform the duties pertaining to the office of Governor.

SEC. 5. *Duties of Governor.*

(1) *Residence.* The Governor shall reside at the seat of government of this State.

(2) *Information to General Assembly.* The Governor shall from time to time give the General Assembly information of the affairs of the State and recommend to their consideration such measures as he shall deem expedient.

(3) *Budget.* The Governor shall prepare and recommend to the General Assembly a comprehensive budget of the anticipated revenue and proposed expenditures of the State for the ensuing fiscal period. The budget as enacted by the General Assembly shall be administered by the Governor.

(4) *Execution of laws.* The Governor shall take care that the laws be faithfully executed.

(5) *Commander in Chief.* The Governor shall be Commander in Chief of the military forces of the State except when they shall be called into the service of the United States.

(6) *Clemency.* The Governor may grant reprieves, commutations, and pardons, after conviction, for all offenses (except in cases of impeachment), upon such conditions as he may think proper, subject to regulations prescribed by law relative to the manner of applying for pardons. The terms reprieves, commutations, and pardons shall not include paroles.

(7) *Extra sessions.* The Governor may, on extraordinary occasions, by and with the advice of the Council of State, convene the General Assembly in extra session by his proclamation, stating therein the purpose or purposes for which they are thus convened.

(8) *Appointments.* The Governor shall nominate and by and with the advice and consent of a majority of the Senators appoint all officers whose appointments are not otherwise provided for.

(9) *Information.* The Governor may at any time require information in writing from the head of any administrative department or agency upon any subject relating to the duties of his office.

(10) *Administrative reorganization.* The General Assembly shall prescribe the functions, powers, and duties of the administrative departments and agencies of the State and may alter them from time to time, but the Governor may make such changes in the allocation of offices and agencies and in the allocation of those functions, powers, and duties as he considers necessary for efficient administration. If those changes affect existing law, they shall be set forth in executive orders, which shall be submitted to the General Assembly not later than the sixtieth calendar day of its session, and shall become effective and shall have the force of law upon adjournment sine die of the session, unless specifically disapproved by resolution of either house of the General Assembly or specifically modified by joint resolution of both houses of the General Assembly.

SEC. 6. *Duties of the Lieutenant Governor.* The Lieutenant Governor shall be President of the Senate, but shall have no vote unless the Senate is equally divided. He shall perform such additional duties as the General Assembly or the Governor may assign to him. He shall receive the compensation and allowances prescribed by law.

SEC. 7. *Other elective officers.*

(1) *Officers.* A Secretary of State, an Auditor, a Treasurer, a Superintendent of Public Instruction, an Attorney General, a Commissioner of Agriculture, a Commissioner of Labor, and a Commissioner of Insurance shall be elected by the qualified voters of the State in 1972 and every four years thereafter, at the same time and places as members of the General Assembly are elected. Their term of office shall be four years and shall

commence on the first day of January next after their election and continue until their successors are elected and qualified.

(2) *Duties.* Their respective duties shall be prescribed by law.

(3) *Vacancies.* If the office of any of these officers is vacated by death, resignation, or otherwise, it shall be the duty of the Governor to appoint another to serve until his successor is elected and qualified. Every such vacancy shall be filled by election at the first election for members of the General Assembly that occurs more than 30 days after the vacancy has taken place, and the person chosen shall hold the office for the remainder of the unexpired term fixed in this Section. When a vacancy occurs in the office of any of the officers named in this Section and the term expires on the first day of January succeeding the next election for members of the General Assembly, the Governor shall appoint to fill the vacancy for the unexpired term of the office.

(4) *Interim officers.* Upon the occurrence of a vacancy in the office of any one of these officers for any of the causes stated in the preceding paragraph, the Governor may appoint an interim officer to perform the duties of that office until a person is appointed or elected pursuant to this Section to fill the vacancy and is qualified.

(5) *Acting officers.* During the physical or mental incapacity of any one of these officers to perform the duties of his office, as determined pursuant to this Section, the duties of his office shall be performed by an acting officer who shall be appointed by the Governor.

(6) *Determination of incapacity.* The General Assembly shall by law prescribe with respect to those officers, other than the Governor, whose offices are created by this Article, procedures for determining the physical or mental incapacity of any officer to perform the duties of his office, and for determining whether an officer who has been temporarily incapacitated has sufficiently recovered his physical or mental capacity to perform the duties of his office. Removal of those officers from office for any other cause shall be by impeachment.

SEC. 8. *Council of State.* The Council of State shall consist of the officers whose offices are established by this Article.

SEC. 9. *Compensation and allowances.* The officers whose offices are established by this Article shall at stated periods receive the compensation and allowances prescribed by law, which shall not be diminished during the time for which they have been chosen.

SEC. 10. *Seal of State.* There shall be a seal of the State, which shall be kept by the Governor and used by him as occasion may require, and shall be called "The Great Seal of the State of North Carolina". All grants and commissions shall be issued in the name and by the authority of the State of North Carolina, sealed with "The Great Seal of the State of North Carolina", and signed by the Governor.

SEC. 11. *Administrative departments.* Not later than July 1, 1975, all administrative departments, agencies, and offices of the State and their

respective functions, powers, and duties shall be allocated by law among and within not more than 25 principal administrative departments so as to group them as far as practicable according to major purposes. Regulatory, quasi-judicial, and temporary agencies may, but need not, be allocated within a principal department.

ARTICLE IV

JUDICIAL

SECTION 1. *Judicial power.* The judicial power of the State shall, except as provided in Section 3 of this Article, be vested in a Court for the Trial of Impeachments and in a General Court of Justice. The General Assembly shall have no power to deprive the judicial department of any power or jurisdiction that rightfully pertains to it as a co-ordinate department of the government, nor shall it establish or authorize any courts other than as permitted by this Article.

SEC. 2. *General Court of Justice.* The General Court of Justice shall constitute a unified judicial system for purposes of jurisdiction, operation, and administration, and shall consist of an Appellate Division, a Superior Court Division, and a District Court Division.

SEC. 3. *Judicial powers of administrative agencies.* The General Assembly may vest in administrative agencies established pursuant to law such judicial powers as may be reasonably necessary as an incident to the accomplishment of the purposes for which the agencies were created. Appeals from administrative agencies shall be to the General Court of Justice.

SEC. 4. *Court for the Trial of Impeachments.* The House of Representatives solely shall have the power of impeaching. The Court for the Trial of Impeachments shall be the Senate. When the Governor or Lieutenant Governor is impeached, the Chief Justice shall preside over the Court. A majority of the members shall be necessary to a quorum, and no person shall be convicted without the concurrence of two-thirds of the Senators present. Judgment upon conviction shall not extend beyond removal from and disqualification to hold office in this State, but the party shall be liable to indictment and punishment according to law.

SEC. 5. *Appellate division.* The Appellate Division of the General Court of Justice shall consist of the Supreme Court and the Court of Appeals.

SEC. 6. *Supreme Court.*

(1) *Membership.* The Supreme Court shall consist of a Chief Justice and six Associate Justices, but the General Assembly may increase the number of Associate Justices to not more than eight. In the event the Chief Justice is unable, on account of absence or temporary incapacity, to perform any of the duties placed upon him, the senior Associate Justice available may discharge those duties.

(2) *Sessions of the Supreme Court.* The sessions of the Supreme Court shall be held in the City of Raleigh unless otherwise provided by the General Assembly.

SEC. 7. *Court of Appeals.* The structure, organization, and composition of the Court of Appeals shall be determined by the General Assembly. The Court shall have not less than five members, and may be authorized to sit in divisions, or other than en banc. Sessions of the Court shall be held at such times and places as the General Assembly may prescribe.

SEC. 8. *Retirement of Justices and Judges.* The General Assembly shall provide by general law for the retirement of Justices and Judges of the General Court of Justice, and may provide for the temporary recall of any retired Justice or Judge to serve on the court from which he was retired. The General Assembly shall also prescribe maximum age limits for service as a Justice or Judge.

SEC. 9. *Superior Courts.*

(1) *Superior Court districts.* The General Assembly shall, from time to time, divide the State into a convenient number of Superior Court judicial districts and shall provide for the election of one or more Superior Court Judges for each district. Each regular Superior Court Judge shall reside in the district for which he is elected. The General Assembly may provide by general law for the selection or appointment of special or emergency Superior Court Judges not selected for a particular judicial district.

(2) *Open at all times; sessions for trial of cases.* The Superior Courts shall be open at all times for the transaction of all business except the trial of issues of fact requiring a jury. Regular trial sessions of the Superior Court shall be held at times fixed pursuant to a calendar of courts promulgated by the Supreme Court. At least two sessions for the trial of jury cases shall be held annually in each county.

(3) *Clerks.* A Clerk of the Superior Court for each county shall be elected for a term of four years by the qualified voters thereof, at the same time and places as members of the General Assembly are elected. If the office of Clerk of the Superior Court becomes vacant otherwise than by the expiration of the term, or if the people fail to elect, the senior regular resident Judge of the Superior Court serving the county shall appoint to fill the vacancy until an election can be regularly held.

SEC. 10. *District Courts.* The General Assembly shall, from time to time, divide the State into a convenient number of local court districts and shall prescribe where the District Courts shall sit, but a District Court must sit in at least one place in each county. District Judges shall be elected for each district for a term of four years, in a manner prescribed by law. When more than one District Judge is authorized and elected for a district, the Chief Justice of the Supreme Court shall designate one of the judges as Chief District Judge. Every District Judge shall reside in the district for which he is elected. For each county, the senior regular resident Judge of the Superior Court serving the county shall appoint for a term of two years, from nominations submitted by the Clerk of the Superior Court of the county, one or more Magistrates who shall be officers of the District Court. The number of District Judges and Magistrates shall, from time to time, be determined by the General Assembly. Vacancies in the office of District

Judge shall be filled for the unexpired term in a manner prescribed by law. Vacancies in the office of Magistrate shall be filled for the unexpired term in the manner provided for original appointment to the office.

SEC. 11. *Assignment of Judges.* The Chief Justice of the Supreme Court, acting in accordance with rules of the Supreme Court, shall make assignments of Judges of the Superior Court and may transfer District Judges from one district to another for temporary or specialized duty. The principle of rotating Superior Court Judges among the various districts of a division is a salutary one and shall be observed. For this purpose the General Assembly may divide the State into a number of judicial divisions. Subject to the general supervision of the Chief Justice of the Supreme Court, assignment of District Judges within each local court district shall be made by the Chief District Judge.

SEC. 12. *Jurisdiction of the General Court of Justice.*

(1) *Supreme Court.* The Supreme Court shall have jurisdiction to review upon appeal any decision of the courts below, upon any matter of law or legal inference. The jurisdiction of the Supreme Court over "issues of fact" and "questions of fact" shall be the same exercised by it prior to the adoption of this Article, and the Court may issue any remedial writs necessary to give it general supervision and control over the proceedings of the other courts.

(2) *Court of Appeals.* The Court of Appeals shall have such appellate jurisdiction as the General Assembly may prescribe.

(3) *Superior Court.* Except as otherwise provided by the General Assembly, the Superior Court shall have original general jurisdiction throughout the State. The Clerks of the Superior Court shall have such jurisdiction and powers as the General Assembly shall prescribe by general law uniformly applicable in every county of the State.

(4) *District Courts; Magistrates.* The General Assembly shall, by general law uniformly applicable in every local court district of the State, prescribe the jurisdiction and powers of the District Courts and Magistrates.

(5) *Waiver.* The General Assembly may by general law provide that the jurisdictional limits may be waived in civil cases.

(6) *Appeals.* The General Assembly shall by general law provide a proper system of appeals. Appeals from Magistrates shall be heard de novo, with the right of trial by jury as defined in this Constitution and the laws of this State.

SEC. 13. *Forms of action; rules of procedure.*

(1) *Forms of Action.* There shall be in this State but one form of action for the enforcement or protection of private rights or the redress of private wrongs, which shall be denominated a civil action, and in which there shall be a right to have issues of fact tried before a jury. Every action prosecuted by the people of the State as a party against a person charged with a public offense, for the punishment thereof, shall be termed a criminal action.

(2) *Rules of procedure.* The Supreme Court shall have exclusive authority to make rules of procedure and practice for the Appellate Division. The General Assembly may make rules of procedure and practice for the Superior Court and District Court Divisions, and the General Assembly may delegate this authority to the Supreme Court. No rule of procedure or practice shall abridge substantive rights or abrogate or limit the right of trial by jury. If the General Assembly should delegate to the Supreme Court the rule-making power, the General Assembly may, nevertheless, alter, amend, or repeal any rule of procedure or practice adopted by the Supreme Court for the Superior Court or District Court Divisions.

SEC. 14. *Waiver of jury trial.* In all issues of fact joined in any court, the parties in any civil case may waive the right to have the issues determined by a jury, in which case the finding of the judge upon the facts shall have the force and effect of a verdict by a jury.

SEC. 15. *Administration.* The General Assembly shall provide for an administrative office of the courts to carry out the provisions of this Article.

SEC. 16. *Terms of office and election of Justices of the Supreme Court, Judges of the Court of Appeals, and Judges of the Superior Court.* Justices of the Supreme Court, Judges of the Court of Appeals, and regular Judges of the Superior Court shall be elected by the qualified voters and shall hold office for terms of eight years and until their successors are elected and qualified. Justices of the Supreme Court and Judges of the Court of Appeals shall be elected by the qualified voters of the State. Regular Judges of the Superior Court may be elected by the qualified voters of the State or by the voters of their respective districts, as the General Assembly may prescribe.

SEC. 17. Removal of Judges, Magistrates and Clerks.

(1) *Removal of Judges by the General Assembly.* Any Justice or Judge of the General Court of Justice may be removed from office for mental or physical incapacity by joint resolution of two-thirds of all the members of each house of the General Assembly. Any Justice or Judge against whom the General Assembly may be about to proceed shall receive notice thereof, accompanied by a copy of the causes alleged for his removal, at least 20 days before the day on which either house of the General Assembly shall act thereon. Removal from office by the General Assembly for any other cause shall be by impeachment.

(2) *Additional method of removal of Judges.* The General Assembly shall prescribe a procedure, in addition to impeachment and address set forth in this Section, for the removal of a Justice or Judge of the General Court of Justice for mental or physical incapacity interfering with the performance of his duties which is, or is likely to become, permanent, and for the censure and removal of a Justice or Judge of the General Court of Justice for wilful misconduct in office, wilful and persistent failure to perform his duties, habitual intemperance, conviction of a crime involving moral turpitude, or conduct prejudicial to the administration of justice that brings the judicial office into disrepute.

(3) *Removal of Magistrates.* The General Assembly shall provide by general law for the removal of Magistrates for misconduct or mental or physical incapacity.

(4) *Removal of Clerks.* Any Clerk of the Superior Court may be removed from office for misconduct or mental or physical incapacity by the senior regular resident Superior Court Judge serving the county. Any Clerk against whom proceedings are instituted shall receive written notice of the charges against him at least ten days before the hearing upon the charges. Any Clerk so removed from office shall be entitled to an appeal as provided by law.

SEC. 18. *District Attorney and prosecutorial districts.*

(1) *District Attorneys.* The General Assembly shall, from time to time, divide the State into a convenient number of prosecutorial districts, for each of which a District Attorney shall be chosen for a term of four years by the qualified voters thereof, at the same time and places as members of the General Assembly are elected. The District Attorney shall advise the officers of justice in his district, be responsible for the prosecution on behalf of the State of all criminal actions in the Superior Courts of his district, perform such duties related to appeals therefrom as the Attorney General may require, and perform such other duties as the General Assembly may prescribe.

(2) *Prosecution in District Court Division.* Criminal actions in the District Court Division shall be prosecuted in such manner as the General Assembly may prescribe by general law uniformly applicable in every local court district of the State.

SEC. 19. *Vacancies.* Unless otherwise provided in this Article, all vacancies occurring in the offices provided for by this Article shall be filled by appointment of the Governor, and the appointees shall hold their places until the next election for members of the General Assembly that is held more than 30 days after the vacancy occurs, when elections shall be held to fill the offices. When the unexpired term of any of the offices named in this Article of the Constitution in which a vacancy has occurred, and in which it is herein provided that the Governor shall fill the vacancy, expires on the first day of January succeeding the next election for members of the General Assembly, the Governor shall appoint to fill that vacancy for the unexpired term of the office. If any person elected or appointed to any of these offices shall fail to qualify, the office shall be appointed to, held, and filled as provided in case of vacancies occurring therein. All incumbents of these offices shall hold until their successors are qualified.

SEC. 20. *Revenues and expenses of the judicial department.* The General Assembly shall provide for the establishment of a schedule of court fees and costs which shall be uniform throughout the State within each division of the General Court of Justice. The operating expenses of the judicial department, other than compensation to process servers and other locally paid non-judicial officers, shall be paid from State funds.

SEC. 21. *Fees, salaries, and emoluments.* The General Assembly shall prescribe and regulate the fees, salaries, and emoluments of all officers provided for in this Article, but the salaries of Judges shall not be diminished during their continuance in office. In no case shall the compensation of any Judge or Magistrate be dependent upon his decision or upon the collection of costs.

ARTICLE V

FINANCE

SECTION 1. *No capitation tax to be levied.* No poll or capitation tax shall be levied by the General Assembly or by any county, city or town, or other taxing unit.

SEC. 2. *State and local taxation.*

(1) *Power of taxation.* The power of taxation shall be exercised in a just and equitable manner, for public purposes only, and shall never be surrendered, suspended, or contracted away.

(2) *Classification.* Only the General Assembly shall have the power to classify property for taxation, which power shall be exercised only on a State-wide basis and shall not be delegated. No class of property shall be taxed except by uniform rule, and every classification shall be made by general law uniformly applicable in every county, city and town, and other unit of local government.

(3) *Exemptions.* Property belonging to the State, counties, and municipal corporations shall be exempt from taxation. The General Assembly may exempt cemeteries and property held for educational, scientific, literary, cultural, charitable, or religious purposes, and, to a value not exceeding $300, any personal property. The General Assembly may exempt from taxation not exceeding $1,000 in value of property held and used as the place of residence of the owner. Every exemption shall be on a State-wide basis and shall be made by general law uniformly applicable in every county, city and town, and other unit of local government. No taxing authority other than the General Assembly may grant exemptions, and the General Assembly shall not delegate the powers accorded to it by this subsection.

(4) *Special tax areas.* Subject to the limitations imposed by Section 4, the General Assembly may enact general laws authorizing the governing body of any county, city, or town to define territorial areas and to levy taxes within those areas, in addition to those levied throughout the county, city, or town, in order to finance, provide, or maintain services, facilities, and functions in addition to or to a greater extent than those financed, provided, or maintained for the entire county, city, or town.

(5) *Purposes of property tax.* The General Assembly shall not authorize any county, city or town, special district, or other unit of local government to levy taxes on property, except for purposes authorized by general law uniformly applicable throughout the State, unless the tax is approved by a majority of the qualified voters of the unit who vote thereon.

(6) *Income tax.* The rate of tax on incomes shall not in any case exceed ten per cent, and there shall be allowed personal exemptions and deductions so that only net incomes are taxed.

(7) *Contracts.* The General Assembly may enact laws whereby the State, any county, city or town, and any other public corporation may contract with and appropriate money to any person, association, or corporation for the accomplishment of public purposes only.

SEC. 3. *Limitations upon the increase of State debt.*

(1) *Authorized purposes; two-thirds limitation.* The General Assembly shall have no power to contract debts secured by a pledge of the faith and credit of the State, unless approved by a majority of the qualified voters of the State who vote thereon, except for the following purposes:

(a) to fund or refund a valid existing debt;

(b) to supply an unforeseen deficiency in the revenue;

(c) to borrow in anticipation of the collection of taxes due and payable within the current fiscal year to an amount not exceeding 50 per cent of such taxes;

(d) to suppress riots or insurrections, or to repel invasions;

(e) to meet emergencies immediately threatening the public health or safety, as conclusively determined in writing by the Governor;

(f) for any other lawful purpose, to the extent of two-thirds of the amount by which the State's outstanding indebtedness shall have been reduced during the next preceding biennium.

(2) *Gift or loan of credit regulated.* The General Assembly shall have no power to give or lend the credit of the State in aid of any person, association, or corporation, except a corporation in which the State has a controlling interest, unless the subject is submitted to a direct vote of the people of the State, and is approved by a majority of the qualified voters who vote thereon.

(3) *Definitions.* A debt is incurred within the meaning of this Section when the State borrows money. A pledge of the faith and credit within the meaning of this Section is a pledge of the taxing power. A loan of credit within the meaning of this Section occurs when the State exchanges its obligations with or in any way guarantees the debts of an individual, association or private corporation.

(4) *Certain debts barred.* The General Assembly shall never assume or pay any debt or obligation, express or implied, incurred in aid of insurrection against the United States. Neither shall the General Assembly assume or pay any debt or bond incurred or issued by authority of the Convention of 1868, the special session of the General Assembly of 1868, or the General Assemblies of 1868-69 and 1869-70, unless the subject is submitted to the people of the State and is approved by a majority of all the qualified voters at a referendum held for that sole purpose.

(5) *Outstanding debt.* Except as provided in subsection (4), nothing in this Section shall be construed to invalidate or impair the obligation of any bond, note, or other evidence of indebtedness outstanding or authorized for issue as of July 1, 1973.

SEC. 4. *Limitations upon the increase of local government debt.*

(1) *Regulation of borrowing and debt.* The General Assembly shall enact general laws relating to the borrowing of money secured by a pledge of the faith and credit and the contracting of other debts by counties, cities and towns, special districts, and other units, authorities, and agencies of local government.

(2) *Authorized purposes; two-thirds limitation.* The General Assembly shall have no power to authorize any county, city or town, special district, or other unit of local government to contract debts secured by a pledge of its faith and credit unless approved by a majority of the qualified voters of the unit who vote thereon, except for the following purposes:

(a) to fund or refund a valid existing debt;

(b) to supply an unforeseen deficiency in the revenue;

(c) to borrow in anticipation of the collection of taxes due and payable within the current fiscal year to an amount not exceeding 50 per cent of such taxes;

(d) to suppress riots or insurrections;

(e) to meet emergencies immediately threatening the public health or safety, as conclusively determined in writing by the Governor;

(f) for purpose authorized by general laws uniformly applicable throughout the State, to the extent of two-thirds of the amount by which the unit's outstanding indebtedness shall have been reduced during the next preceding fiscal year.

(3) *Gift or loan of credit regulated.* No county, city or town, special district, or other unit of local government shall give or lend its credit in aid of any person, association, or corporation, except for public purposes as authorized by general law, and unless approved by a majority of the qualified voters of the unit who vote thereon.

(4) *Certain debts barred.* No county, city or town, or other unit of local government shall assume or pay any debt or the interest thereon contracted directly or indirectly in aid or support of rebellion or insurrection against the United States.

(5) *Definitions.* A debt is incurred within the meaning of this Section when a county, city or town, special district, or other unit, authority, or agency of local government borrows money. A pledge of faith and credit within the meaning of this Section is a pledge of the taxing power. A loan of credit within the meaning of this Section occurs when a county, city or town, special district, or other unit, authority, or agency of local government

exchanges its obligations with or in any way guarantees the debts of an individual, association, or private corporation.

(6) *Outstanding debt.* Except as provided in subsection (4), nothing in this Section shall be construed to invalidate or impair the obligation of any bond, note, or other evidence of indebtedness outstanding or authorized for issue as of July 1, 1973.

SEC. 5. *Acts levying taxes to state objects.* Every act of the General Assembly levying a tax shall state the special object to which it is to be applied, and it shall be applied to no other purpose.

SEC. 6. *Inviolability of sinking funds and retirement funds.*

(1) *Sinking funds.* The General Assembly shall not use or authorize to be used any part of the amount of any sinking fund for any purpose other than the retirement of the bonds for which the sinking fund has been created, except that these funds may be invested as authorized by law.

(2) *Retirement funds.* Neither the General Assembly nor any public officer, employee, or agency shall use or authorize to be used any part of the funds of the Teachers' and State Employees' Retirement System or the Local Governmental Employees' Retirement System for any purpose other than retirement system benefits and purposes, administrative expenses, and refunds; except that retirement system funds may be invested as authorized by law, subject to the investment limitation that the funds of the Teachers' and State Employees' Retirement System and the local Governmental Employees' Retirement System shall not be applied, diverted, loaned to, or used by the State, any State agency, State officer, public officer, or public employee.

SEC. 7. *Drawing public money.*

(1) *State treasury.* No money shall be drawn from the State Treasury but in consequence of appropriations made by law, and an accurate account of the receipts and expenditures of State funds shall be published annually.

(2) *Local treasury.* No money shall be drawn from the treasury of any county, city or town, or other unit of local government except by authority of law.

ARTICLE VI

SUFFRAGE AND ELIGIBILITY TO OFFICE

SEC. 1. *Who may vote.* Every person born in the United States and every person who has been naturalized, 18 years of age, and possessing the qualifications set out in this Article, shall be entitled to vote at any election by the people of the State, except as herein otherwise provided.

SEC. 2. *Qualifications of voter.*

(1) *Residence period for State elections.* Any person who has resided in the State of North Carolina for one year and in the precinct, ward, or other election district for 30 days next preceding an election, and possesses

the other qualifications set out in this Article, shall be entitled to vote at any election held in this State. Removal from one precinct, ward, or other election district to another in this State shall not operate to deprive any person of the right to vote in the precinct, ward, or other election district from which that person has removed until 30 days after the removal.

(2) *Residence period for presidential elections.* The General Assembly may reduce the time of residence for persons voting in presidential elections. A person made eligible by reason of a reduction in time of residence shall possess the other qualifications set out in this Article, shall only be entitled to vote for President and Vice President of the United States or for electors for President and Vice President, and shall not thereby become eligible to hold office in this State.

(3) *Disqualification of felon.* No person adjudged guilty of a felony against this State or the United States, or adjudged guilty of a felony in another state that also would be a felony if it had been committed in this State, shall be permitted to vote unless that person shall be first restored to the rights of citizenship in the manner prescribed by law.

SEC. 3. *Registration.* Every person offering to vote shall be at the time legally registered as a voter as herein prescribed and in the manner provided by law. The General Assembly shall enact general laws governing the registration of voters.

SEC. 4. *Qualification for registration.* Every person presenting himself for registration shall be able to read and write any section of the Constitution in the English language.

SEC. 5. *Elections by people and General Assembly.* All elections by the people shall be by ballot, and all elections by the General Assembly shall be viva voce. A contested election for any office established by Article III of this Constitution shall be determined by joint ballot of both houses of the General Assembly in the manner prescribed by law.

SEC. 6. *Eligibility to elective office.* Every qualified voter in North Carolina who is 21 years of age, except as in this Constitution disqualified, shall be eligible for election by the people to office.

SEC. 7. *Oath.* Before entering upon the duties of an office, a person elected or appointed to the office shall take and subscribe the following oath:

"I, ..., do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office as....., so help me God."

SEC. 8. *Disqualifications for office.* The following persons shall be disqualified for office:

First, any person who shall deny the being of Almighty God.

Second, with respect to any office that is filled by election by the people, any person who is not qualified to vote in an election for that office.

Third, any person who has been adjudged guilty of treason or any other felony against this State or the United States, or any person who has been adjudged guilty of a felony in another state that also would be a felony if it had been committed in this State, or any person who has been adjudged guilty of corruption or malpractice in any office, or any person who has been removed by impeachment from any office, and who has not been restored to the rights of citizenship in the manner prescribed by law.

SEC. 9. *Dual office holding.*

(1) *Prohibitions.* It is salutary that the responsibilities of self-government be widely shared among the citizens of the State and that the potential abuse of authority inherent in the holding of multiple offices by an individual be avoided. Therefore, no person who holds any office or place of trust or profit under the United States or any department thereof, or under any other state or government, shall be eligible to hold any office in this State that is filled by election by the people. No person shall hold concurrently any two offices in this State that are filled by election of the people. No person shall hold concurrently any two or more appointive offices or places of trust or profit, or any combination of elective and appointive offices or places of trust or profit, except as the General Assembly shall provide by general law.

(2) *Exceptions.* The provisions of this Section shall not prohibit any officer of the military forces of the State or of the United States not on active duty for an extensive period of time, any notary public, or any delegate to a Convention of the People from holding concurrently another office or place of trust or profit under this State or the United States or any department thereof.

SEC. 10. *Continuation in office.* In the absence of any contrary provision, all officers in this State, whether appointed or elected, shall hold their positions until other appointments are made or, if the offices are elective, until their successors are chosen and qualified.

ARTICLE VII

LOCAL GOVERNMENT

SECTION 1. *General Assembly to provide for local government.* The General Assembly shall provide for the organization and government and the fixing of boundaries of counties, cities and towns, and other governmental subdivisions, and, except as otherwise prohibited by this Constitution, may give such powers and duties to counties, cities and towns, and other governmental subdivisions as it may deem advisable.

The General Assembly shall not incorporate as a city or town, nor shall it authorize to be incorporated as a city or town, any territory lying within one mile of the corporate limits of any other city or town having a population of 5,000 or more according to the most recent decennial census of population taken by order of Congress, or lying within three miles of the corporate limits of any other city or town having a population of 10,000 or more according to the most recent decennial census of population taken by

order of Congress, or lying within four miles of the corporate limits of any other city or town having a population of 25,000 or more according to the most recent decennial census of population taken by order of Congress, or lying within five miles of the corporate limits of any other city or town having a population of 50,000 or more according to the most recent decennial census of population taken by order of Congress. Notwithstanding the foregoing limitations, the General Assembly may incorporate a city or town by an act adopted by vote of three-fifths of all the members of each house.

SEC. 2. *Sheriffs.* In each county a Sheriff shall be elected by the qualified voters thereof at the same time and places as members of the General Assembly are elected and shall hold his office for a period of four years, subject to removal for cause as provided by law.

SEC. 3. *Merged or consolidated counties.* Any unit of local government formed by the merger or consolidation of a county or counties and the cities and towns therein shall be deemed both a county and a city for the purposes of this Constitution, and may exercise any authority conferred by law on counties, or on cities and towns, or both, as the General Assembly may provide.

ARTICLE VIII

CORPORATIONS

SECTION 1. *Corporate charters.* No corporation shall be created, nor shall its charter be extended, altered, or amended by special act, except corporations for charitable, educational, penal, or reformatory purposes that are to be and remain under the patronage and control of the State; but the General Assembly shall provide by general laws for the chartering, organization, and powers of all corporations, and for the amending, extending, and forfeiture of all charters, except those above permitted by special act. All such general acts may be altered from time to time or repealed. The General Assembly may at any time by special act repeal the charter of any corporation.

SEC. 2. *Corporations defined.* The term "corporation" as used in this Section shall be construed to include all associations and joint-stock companies having any of the powers and privileges of corporations not possessed by individuals or partnerships. All corporations shall have the right to sue and shall be subject to be sued in all courts, in like cases as natural persons.

ARTICLE IX

EDUCATION

SECTION 1. *Education encouraged.* Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools, libraries, and the means of education shall forever be encouraged.

SEC. 2. *Uniform system of schools.*

(1) *General and uniform system; term.* The General Assembly shall provide by taxation and otherwise for a general and uniform system of free

public schools, which shall be maintained at least nine months in every year, and wherein equal opportunities shall be provided for all students.

(2) *Local responsibility.* The General Assembly may assign to units of local government such responsibility for the financial support of the free public schools as it may deem appropriate. The governing boards of units of local government with financial responsibility for public education may use local revenues to add to or supplement any public school or post-secondary school program.

SEC. 3. *School attendance.* The General Assembly shall provide that every child of appropriate age and of sufficient mental and physical ability shall attend the public schools, unless educated by other means.

SEC. 4. *State Board of Education.*

(1) *Board.* The State Board of Education shall consist of the Lieutenant Governor, the Treasurer, and eleven members appointed by the Governor, subject to confirmation by the General Assembly in joint session. The General Assembly shall divide the State into eight educational districts. Of the appointive members of the Board, one shall be appointed from each of the eight educational districts and three shall be appointed from the State at large. Appointments shall be for overlapping terms of eight years. Appointments to fill vacancies shall be made by the Governor for the unexpired terms and shall not be subject to confirmation.

(2) *Superintendent of Public Instruction.* The Superintendent of Public Instruction shall be the secretary and chief administrative officer of the State Board of Education.

SEC. 5. *Powers and duties of Board.* The State Board of Education shall supervise and administer the free public school system and the educational funds provided for its support, except the funds mentioned in Section 7 of this Article, and shall make all needed rules and regulations in relation thereto, subject to laws enacted by the General Assembly.

SEC. 6. *State school fund.* The proceeds of all lands that have been or hereafter may be granted by the United States to this State, and not otherwise appropriated by this State or the United States; all moneys, stocks, bonds, and other property belonging to the State for purposes of public education; the net proceeds of all sales of the swamp lands belonging to the State; and all other grants, gifts, and devises that have been or hereafter may be made to the State, and not otherwise appropriated by the State or by the terms of the grant, gift, or devise, shall be paid into the State Treasury and, together with so much of the revenue of the State as may be set apart for that purpose, shall be faithfully appropriated and used exclusively for establishing and maintaining a uniform system of free public schools.

SEC. 7. *County school fund.* All moneys, stocks, bonds, and other property belonging to a county school fund, and the clear proceeds of all penalties and forfeitures and of all fines collected in the several counties for any breach of the penal laws of the State, shall belong to and remain in the

several counties, and shall be faithfully appropriated and used exclusively for maintaining free public schools.

SEC. 8. *Higher education.* The General Assembly shall maintain a public system of higher education, comprising The University of North Carolina and such other institutions of higher education as the General Assembly may deem wise. The General Assembly shall provide for the selection of trustees of The University of North Carolina and of the other institutions of higher education, in whom shall be vested all the privileges, rights, franchises, and endowments heretofore granted to or conferred upon the trustees of these institutions. The General Assembly may enact laws necessary and expedient for the maintenance and management of The University of North Carolina and the other public institutions of higher education.

SEC. 9. *Benefits of public institutions of higher education.* The General Assembly shall provide that the benefits of The University of North Carolina and other public institutions of higher education, as far as practicable, be extended to the people of the State free of expense.

SEC. 10. *Escheats.*

(1) *Escheats prior to July 1, 1971.* All property that prior to July 1, 1971, accrued to the State from escheats, unclaimed dividends, or distributive shares of the estates of deceased persons shall be appropriated to the use of The University of North Carolina.

(2) *Escheats after June 30, 1971.* All property that, after June 30, 1971, shall accrue to the State from escheats, unclaimed dividends, or distributive shares of the estates of deceased persons shall be used to aid worthy and needy students who are residents of this State and are enrolled in public institutions of higher education in this State. The method, amount, and type of distribution shall be prescribed by law.

ARTICLE X

HOMESTEADS AND EXEMPTIONS

SECTION 1. *Personal property exemptions.* The personal property of any resident of this State, to a value fixed by the General Assembly but not less than $500, to be selected by the resident, is exempted from sale under execution or other final process of any court, issued for the collection of any debt.

SEC. 2. *Homestead exemptions.*

(1) *Exemption from sale; exceptions.* Every homestead and the dwellings and buildings used therewith, to a value fixed by the General Assembly but not less than $1,000, to be selected by the owner thereof, or in lieu thereof, at the option of the owner, any lot in a city or town with the dwellings and buildings used thereon, and to the same value, owned and occupied by a resident of the State, shall be exempt from sale under execution or other final process obtained on any debt. But no property shall be exempt from sale for taxes, or for payment of obligations contracted for its purchase.

(2) *Exemption for benefit of children.* The homestead, after the death of the owner thereof, shall be exempt from the payment of any debt during the minority of the owner's children, or any of them.

(3) *Exemption for benefit of widow.* If the owner of a homestead dies, leaving a widow but no children, the homestead shall be exempt from the debts of her husband, and the rents and profits thereof shall inure to her benefit during her widowhood, unless she is the owner of a homestead in her own right.

(4) *Conveyance of homestead.* Nothing contained in this Article shall operate to prevent the owner of a homestead from disposing of it by deed, but no deed made by the owner of a homestead shall be valid without the signature and acknowledgement of his wife.

SEC. 3. *Mechanics' and laborers' liens.* The General Assembly shall provide by proper legislation for giving to mechanics and laborers an adequate lien on the subject-matter of their labor. The provisions of Sections 1 and 2 of this Article shall not be so construed as to prevent a laborer's lien for work done and performed for the person claiming the exemption or a mechanic's lien for work done on the premises.

SEC. 4. *Property of married women secured to them.* The real and personal property of any female in this State acquired before marriage, and all property, real and personal, to which she may, after marriage, become in any manner entitled, shall be and remain the sole and separate estate and property of such female, and shall not be liable for any debts, obligations, or engagements of her husband, and may be devised and bequeathed and conveyed by her, subject to such regulations and limitations as the General Assembly may prescribe. Every married woman may exercise powers of attorney conferred upon her by her husband, including the power to execute and acknowledge deeds to property owned by herself and her husband or by her husband.

SEC. 5. *Insurance.* The husband may insure his own life for the sole use and benefit of his wife or children or both, and upon his death the proceeds from the insurance shall be paid to or for the benefit of the wife or children or both, or to a guardian, free from all claims of the representatives or creditors of the insured or his estate. Any insurance policy which insures the life of a husband for the sole use and benefit of his wife or children or both shall not be subject to the claims of creditors of the insured during his lifetime, whether or not the policy reserves to the insured during his lifetime any or all rights provided for by the policy and whether or not the policy proceeds are payable to the estate of the insured in the event the beneficiary or beneficiaries predecease the insured.

ARTICLE XI

PUNISHMENTS, CORRECTIONS, AND CHARITIES

SECTION 1. *Punishments.* The following punishments only shall be known to the laws of this State: death, imprisonment, fines, removal from office,

and disqualification to hold and enjoy any office of honor, trust, or profit under this State.

SEC. 2. *Death punishment.* The object of punishments being not only to satisfy justice, but also to reform the offender and thus prevent crime, murder, arson, burglary, and rape, and these only, may be punishable with death, if the General Assembly shall so enact.

SEC. 3. *Charitable and correctional institutions and agencies.* Such charitable, benevolent, penal, and correctional institutions and agencies as the needs of humanity and the public good may require shall be established and operated by the State under such organization and in such manner as the General Assembly may prescribe.

SEC. 4. *Welfare policy; board of public welfare.* Beneficent provision for the poor, the unfortunate, and the orphan is one of the first duties of a civilized and a Christian state. Therefore the General Assembly shall provide for and define the duties of a board of public welfare.

ARTICLE XII

MILITARY FORCES

SECTION 1. *Governor is Commander in Chief.* The Governor shall be Commander in Chief of the military forces of the State and may call out those forces to execute the law, suppress riots and insurrections, and repel invasion.

ARTICLE XIII

CONVENTIONS; CONSTITUTIONAL AMENDMENT AND REVISION

SECTION 1. *Convention of the People.* No Convention of the People of this State shall ever be called unless by the concurrence of two-thirds of all the members of each house of the General Assembly, and unless the proposition "Convention or No Convention" is first submitted to the qualified voters of the State at the time and in the manner prescribed by the General Assembly. If a majority of the votes cast upon the proposition are in favor of a Convention, it shall assemble on the day prescribed by the General Assembly. The General Assembly shall, in the act submitting the convention proposition, propose limitations upon the authority of the Convention; and if a majority of the votes cast upon the proposition are in favor of a Convention, those limitations shall become binding upon the Convention. Delegates to the Convention shall be elected by the qualified voters at the time and in the manner prescribed in the act of submission. The Convention shall consist of a number of delegates equal to the membership of the House of Representatives of the General Assembly that submits the convention proposition and the delegates shall be apportioned as is the House of Representatives. A Convention shall adopt no ordinance not necessary to the purpose for which the Convention has been called.

SEC. 2. *Power to revise or amend Constitution reserved to people.* The people of this State reserve the power to amend this Constitution and to

adopt a new or revised Constitution. This power may be exercised by either of the methods set out hereinafter in this Article, but in no other way.

SEC. 3. *Revision or amendment by Convention of the People.* A Convention of the People of this State may be called pursuant to Section 1 of this Article to propose a new or revised Constitution or to propose amendments to this Constitution. Every new or revised Constitution and every constitutional amendment adopted by a Convention shall be submitted to the qualified voters of the State at the time and in the manner prescribed by the Convention. If a majority of the votes cast thereon are in favor of ratification of the new or revised Constitution or the constitutional amendment or amendments, it or they shall become effective January first next after ratification by the qualified voters unless a different effective date is prescribed by the Convention.

SEC. 4. *Revision or amendment by legislative initiation.* A proposal of a new or revised Constitution or an amendment or amendments to this Constitution may be initiated by the General Assembly, but only if three-fifths of all the members of each house shall adopt an act submitting the proposal to the qualified voters of the State for their ratification or rejection. The proposal shall be submitted at the time and in the manner prescribed by the General Assembly. If a majority of the votes cast thereon are in favor of the proposed new or revised Constitution or constitutional amendment or amendments, it or they shall become effective January first next after ratification by the voters unless a different effective date is prescribed in the act submitting the proposal or proposals to the qualified voters.

ARTICLE XIV

MISCELLANEOUS

SECTION 1. *Seat of government.* The permanent seat of government of this State shall be at the City of Raleigh.

SEC. 2. *State boundaries.* The limits and boundaries of the State shall be and remain as they now are.

SEC. 3. *General laws defined.* Whenever the General Assembly is directed or authorized by this Constitution to enact general laws, or general laws uniformly applicable throughout the State, or general laws uniformly applicable in every county, city and town, and other unit of local government, or in every local court district, no special or local act shall be enacted concerning the subject matter directed or authorized to be accomplished by general or uniformly applicable laws, and every amendment or repeal of any law relating to such subject matter shall also be general and uniform in its effect throughout the State. General laws may be enacted for classes defined by population or other criteria. General laws uniformly applicable throughout the State shall be made applicable without classification or exception in every unit of local government of like kind, such as every county, or every city and town, but need not be made applicable in every unit of local government in the State. General laws uniformly applicable in every county, city and town, and other unit of local government, or in every local court

district, shall be made applicable without classification or exception in every unit of local government, or in every local court district, as the case may be. The General Assembly may at any time repeal any special, local, or private act.

SEC. 4. *Continuity of laws; protection of office holders.* The laws of North Carolina not in conflict with this Constitution shall continue in force until lawfully altered. Except as otherwise specifically provided, the adoption of this Constitution shall not have the effect of vacating any office or term of office now filled or held by virtue of any election or appointment made under the prior Constitution of North Carolina and the laws of the State enacted pursuant thereto.

SEC. 5. *Conservation of natural resources.* It shall be the policy of this State to conserve and protect its lands and waters for the benefit of all its citizenry, and to this end it shall be a proper function of the State of North Carolina and its political subdivisions to acquire and preserve park, recreational, and scenic areas, to control and limit the pollution of our air and water, to control excessive noise, and in every other appropriate way to preserve as a part of the common heritage of this State its forests, wetlands, estuaries, beaches, historical sites, openlands, and places of beauty.

To accomplish the aforementioned public purposes, the State and its counties, cities and towns, and other units of local government may acquire by purchase or gift properties or interests in properties which shall, upon their special dedication to and acceptance by resolution adopted by a vote of three-fifths of the members of each house of the General Assembly for those public purposes, constitute part of the "State Nature and Historic Preserve", and which shall not be used for other purposes except as authorized by the law enacted by a vote of three-fifths of the members of each house of the General Assembly. The General Assembly shall prescribe by general law the conditions and procedures under which such properties or interests therein shall be dedicated for the aforementioned public purposes.

SESSION LAWS
OF THE
STATE OF NORTH CAROLINA

REGULAR SESSION 1975

H. B. 2 **CHAPTER 1**

AN ACT TO AMEND G.S. 20-158 TO PERMIT RIGHT TURN ON RED LIGHTS AFTER STOP.

The General Assembly of North Carolina enacts:

Section 1. Subdivision (2) of G.S. 20-158(b) as the same appears in the 1974 Cumulative Supplement to Volume 1C of the General Statutes is hereby amended by inserting immediately after the word "light" and immediately before the period appearing in line six thereof, the following proviso:

"Provided, that except where prohibited by appropriate sign, vehicular traffic facing a steady red light may enter an intersection to make a right turn after coming to a complete stop and yielding the right-of-way to pedestrians and to other traffic using the intersection."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of January, 1975.

S. B. 17 **CHAPTER 2**

AN ACT TO AMEND CHAPTER 96 OF THE GENERAL STATUTES KNOWN AS THE EMPLOYMENT SECURITY LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 96-12(e)A(2) as it appears in the 1974 Cumulative Supplement, Volume 2C of the General Statutes of North Carolina, is hereby rewritten as follows:

"(2) Beginning January 1, 1975, through December 31, 1976, there is a 'national "on" indicator' for a week if the United States Secretary of Labor determines that for each of the three most recent completed calendar months ending before such week, the rate of insured unemployment (seasonally adjusted) for all states equalled or exceeded 4.0 percent. Subsequent to December 31, 1976, the indicator rate shall be 4.5 percent."

Sec. 2. G.S. 96-12(e)A(3) as it appears in the 1974 Cumulative Supplement, Volume 2C of the General Statutes of North Carolina, is hereby rewritten as follows:

"(3) Beginning January 1, 1975, through December 31, 1976, there is a 'national "off" indicator' for a week if the United States Secretary of Labor determines that for each of the three most recent completed calendar months ending before such week, the rate of insured unemployment (seasonally adjusted) for all states was less than 4.0 percent. Subsequent to December 31, 1976, the indicator rate shall be 4.5 percent."

Sec. 3. G.S. 96-12(e) as it appears in the 1974 Cumulative Supplement, Volume 2C of the General Statutes of North Carolina is amended by adding a new paragraph H:

"(H) Notwithstanding the provisions of G.S. 96-9(d)(1)a., G.S. 96-9(d)(2)c., G.S. 96-12(e)G, or any other provision of this Chapter, any extended benefits paid which are 100 percent federally financed shall not be charged in any percentage to any employer's account."

Sec. 4. G.S. 96-12(e)A(4)a. is hereby inoperative for the period between January 1, 1975 through December 31, 1976.

Sec. 5. G.S. 96-12(e)A(5)a. is hereby inoperative for the period between January 1, 1975 through December 31, 1976.

Sec. 6. G.S. 96-13(5) is hereby rewritten as follows:

"(5) From the effective date of this amendment through February 15, 1977, no week of unemployment for waiting period credit shall be required of any claimant. Beginning February 16, 1977, an unemployed individual shall be eligible to receive benefits with respect to any week only if the Commission finds that he has been totally, partially, or part-totally unemployed for a waiting period of one week with respect to each benefit year. No week shall be counted as a week of unemployment for waiting period credit under this provision, unless the claimant except for the provisions of this subdivision was otherwise eligible for benefits."

Sec. 7. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of January, 1975.

H. B. 21 CHAPTER 3

AN ACT TO TRANSFER THE OPERATION OF DR. J. ARTHUR DOSHER MEMORIAL HOSPITAL TO THE BRUNSWICK COUNTY HOSPITAL AUTHORITY.

Whereas, a county-wide Ad Hoc Committee was appointed in 1970 by the Brunswick County Commissioners to study the advisability of constructing a centrally located hospital and the Committee reported that a 60-bed centrally located hospital was advisable; and

Whereas, the voters of Brunswick County approved by a margin of two and one half to one the construction of a centrally located hospital in July, 1973; and

Whereas, the Committee and the Medical Care Commission have recommended only one acute care hospital in Brunswick County; and

Whereas, a bond referendum was approved by the voters of Brunswick County, land was purchased, and the plans for a new hospital prepared; and

Whereas, the Division of Facility Services will authorize a grant of one million dollars ($1,000,000) of federal funds for construction of the new hospital, but only if there is only one acute care facility in Brunswick County; and

Whereas, the Office of Comprehensive Health Planning has determined that there is need for only 60 beds for acute care in Brunswick County and, therefore, the office has withheld its approval which is necessary for the new hospital to receive Medicare, Medicaid and other third party reimbursement for the capital construction cost increment of hospital charges to patients; and

Whereas, the Brunswick County Board of Commissioners has determined that Dosher Hospital is antiquated and in disrepair; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Chapter 263, Public-Local Laws of the 1935 Session, as amended by Chapter 108, Public-Local Laws of the 1939 Session, is hereby further amended by:

(1) deleting from Section 3 the words ", and its operation by said City of Southport and the said County of Brunswick" and the words ", and to be continued under the name of 'Dr. J. Arthur Dosher Memorial Hospital', and the appointment of Trustees for the same as hereinafter set out";

(2) deleting Sections 4, 5, 6, 7, 8, 9, 10, 11 and 12 of the act; and

(3) adding the following section thereto:

"12A. That the Brunswick County Hospital Authority, created under the provisions of Chapter 131, Article 12 of the General Statutes, shall henceforth operate the facility in accordance with the provisions of Chapter 131, Article 12 of the General Statutes. The provisions of this section shall not be construed to be a sale, conveyance or other irrevocable transfer of property as used in G.S. 131-115. The terms of office of trustees previously appointed pursuant to this act are hereby terminated."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of February, 1975.

S. B. 9

CHAPTER 4

AN ACT TO AMEND CHAPTER 217 OF THE SESSION LAWS OF 1943 TO CORRECT A TOWNSHIP DESIGNATION.

The General Assembly of North Carolina enacts:

Section 1. Chapter 217 of the Session Laws of 1943 is hereby amended on line 3 of Section 1 by deleting the word "Marietta" and substituting in lieu thereof the words "White House".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of February, 1975.

S. B. 38 **CHAPTER 5**

AN ACT TO AUTHORIZE THE DAVIDSON COUNTY BOARD OF EDUCATION TO CONVEY OR LEASE CERTAIN REAL PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. The Davidson County Board of Education is hereby authorized to convey by good and sufficient deed or to lease all its right, title and interest in and to the hereafter described tract of land located in Davidson County, Reedy Creek Township, North Carolina, to the Reedy Creek Boosters Club, Inc., upon such terms and conditions as said Davidson County Board of Education may in its discretion determine with or without consideration; provided, however, that such lease or conveyance shall provide that if said property at any time ceases to be used for nonprofit public recreational purposes, the lease shall terminate or in the event of a conveyance, the title shall revert by operation of law to the Davidson County Board of Education or its successor.

TRACT I: BEGINNING at a red oak on Koonts and the Consolidated School line running in an eastern direction 30 1/2 rods to the center of the road thence in a northern direction with said road 7 1/2 rods to a corner, thence in a western direction 28 rods to the beginning. Containing 3/4 of an acre more or less.

See Deed Book 107, page 207, in the office of the Register of Deeds of Davidson County.

TRACT II: BEGINNING at a stake in the old road, Koonts corner; thence South 78 1/2 degrees West, 649 feet to a stake in Koonts line, thence South 30 degrees East, 466 feet to a stake, a new corner; thence North 55 degrees East, 375 feet to a stake in Mrs. Phillips' line; thence North 13 degrees West, 46 feet to a stake, Mrs. Phillips' corner; thence North 55 degrees East, 255 feet to a stake, Koonts line, Phillips' corner; thence North 35 degrees West, 217 feet to the beginning, containing five acres, more or less.

See Deed Book 104, page 248, in the office of the Register of Deeds of Davidson County.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of February, 1975.

S. B. 46 **CHAPTER 6**

AN ACT TO ALLOW RED SPRINGS TO TRANSFER A CERTAIN TRACT OF LAND.

The General Assembly of North Carolina enacts:

Section 1. Pursuant to an agreement entered into in 1967, the purpose of which was to provide for a public thoroughfare, the Town of Red Springs is hereby authorized to convey, by private treaty, the following described property to Vardel Hall:

"Bounded on the south by Saratoga Street, on the west and east by other lands of the parties of the second part and on the north by lands of Gibbs and McMillan Estate and more particularly described as follows: BEGINNING at an iron pipe in the northern edge of Second Avenue 20 feet from the center of said street said iron pipe being in the Kinlaw and Ammons land line and North 9 degrees 40 minutes East 460.5 feet from the intersection of the northern line of

East Third Avenue with the western edge of said Saratoga Street; and running thence as the western edge of Saratoga Street; and running thence as the western edge of Saratoga Street extended and as the Kinlaw and Ammons line and beyond North 9 degrees 40 minutes East 252.3 feet to an iron stake, said stake being 26.5 feet north of said Kinlaw and Ammons corner; thence North 86 degrees 12 minutes East to and with the wire fence on the south side of the Town of Red Springs lift station lot 193.9 feet to the southeast corner of said fence; thence as the Eastern fence line of said lift station lot extended South 3 degrees 05 minutes East 30 feet to an iron stake; thence South 86 degrees 12 minutes West 170.1 feet to an iron stake; thence South 9 degrees 40 minutes West 265.6 feet to an iron stake in the northern edge of (20 feet from center) East Second Avenue; thence as the curve of the northern edge of said Second Avenue, the arc of which is North 29 degrees 20 minutes West 47.5 feet to the beginning. The above described strip of land being 30 feet in width when measured at right angles from the lines."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of February, 1975.

S. B. 16 CHAPTER 7

AN ACT TO AMEND G.S. 88-1, RELATING TO COSMETOLOGISTS SO AS TO MAKE THE PROVISIONS OF SAID ACT APPLY TO HALIFAX AND MARTIN COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 88-1, as the same appears in the 1974 Cumulative Supplement to Volume 2C of the General Statutes, is amended by striking the words "Halifax, Martin" appearing in the last sentence thereof.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of February, 1975.

S. B. 56 CHAPTER 8

AN ACT TO AMEND G.S. 96-13(3) OF THE EMPLOYMENT SECURITY LAW TO PROVIDE ELIGIBILITY FOR PERSONS ENGAGED IN FULL-TIME EMPLOYMENT CONCURRENT WITH SCHOOL ATTENDANCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 96-13(3) as it appears in the 1974 Cumulative Supplement, Volume 2C of the General Statutes of North Carolina, is amended as follows:

By deleting the colon following the word "attendance" in line 25, and adding ". Except: (i) any person who was engaged in full-time employment concurrent with his school attendance, who is otherwise eligible, shall not be denied benefits because of school enrollment and attendance."

Sec. 2. G.S. 96-13(3) as it appears in the 1974 Cumulative Supplement, Volume 2C of the General Statutes of North Carolina, is amended as follows:

By deleting after the word "attendance" in line 25, "Provided further, however, effective July 1, 1969," and adding before the word "an" in line 26 the parenthetical number "(ii)" and capitalizing the word "an".

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of February, 1975.

S. B. 41 CHAPTER 9

AN ACT TO AMEND G.S. 130-200 WITH RESPECT TO THE STATUS OF PATHOLOGIST.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-200, as the same appears in 1974 Replacement Volume 3B of the General Statutes, is amended by adding immediately following the period (.) at the end of the first paragraph thereof the following:

"Upon such designation, the pathologist shall have the same immunity from personal liability as provided for medical examiners appointed pursuant to Chapter 130, Article 21, of the General Statutes."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of February, 1975.

S. B. 51 CHAPTER 10

AN ACT TO ANNEX TERRITORY TO THE TOWN OF FAIRMONT.

The General Assembly of North Carolina enacts:

Section 1. The corporate limits of the Town of Fairmont are hereby enlarged by annexation of the following area:

BEGINNING at a stake in the Eastern town limits of the Town of Fairmont at its intersection with the North right-of-way line of N.C. Highway 130 and runs thence with the North right-of-way line of N. C. 130 South 75° 28' East 1178.7 feet to a stake at the intersection with the North right-of-way line of N. C. 130 with the Western right-of-way line of Secondary Road 2300; thence with the western right-of-way line of said Secondary Road 2300 North 3°, 49' East 687.79 feet to a stake at a point in the curve of said right-of-way line; thence continuing with said right-of-way line North 2° 03' West 451.21 feet to a stake; thence crossing Secondary Road 2300 North 84° 01' East 558.97 feet to an iron pipe in the center of a ditch; thence South 2° 03' East 435.0 feet to an iron pipe; thence South 82° 52' West 498.97 feet to an iron pipe; in the Eastern right-of-way line of Secondary Road 2300; thence with said East right-of-way line of Secondary Road 2300 South 3° 49' West 784.79 feet to a stake in the South right-of-way line of N. C. 130; thence with the South right-of-way line of N. C. 130 North 75° 28' West 1255.10 feet to a stake in the East town limits line of the Town of Fairmont; thence with said East line North 0° 02' West 62.0 feet to the beginning.

Sec. 2. From and after the ratification of this act, the annexed territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in such municipality and shall be entitled to the same privileges and benefits as other parts of such municipality. The newly annexed territory shall be subject to municipal taxes levied for the fiscal year following

the date of annexation. If the effective date of annexation falls between January 1 and June 30, the municipality shall, for purposes of levying taxes for the fiscal year beginning July 1 following the date of annexation, obtain from the county a record of property in the area being annexed which was listed for taxation as of said January 1. If the effective date of annexation falls between June 1 and June 30, and the effective date of the privilege license tax ordinance of the annexing municipality is June 1, then businesses in the area to be annexed shall be liable for taxes imposed in such ordinance from and after the effective date of annexation.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of February, 1975.

S. B. 77 CHAPTER 11

AN ACT TO AMEND G.S. 136-33 TO FIX PENALTIES FOR WILLFUL INTERFERENCE WITH HIGHWAY SIGNS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-33, as the same appears in the 1974 Replacement Volume 3B of the General Statutes, is rewritten to read as follows:

"§ 136-33. *Damaging or removing signs; rewards.*—(a) No person shall willfully deface, damage, knock down or remove any sign posted as provided in G.S. 136-26, G.S. 136-30, or G.S. 136-31.

(b) No person, without just cause or excuse, shall have in his possession any highway sign as provided in G.S. 136-26, G.S. 136-30, or G.S. 136-31.

(c) Any person violating the provisions of this section shall be guilty of a misdemeanor punishable by a fine of not more than five hundred dollars ($500.00) or imprisonment for not more than six months, or both, in the discretion of the court.

(d) The Board of Transportation is authorized to offer a reward not to exceed five hundred dollars ($500.00) for information leading to the arrest and conviction of persons who violate the provisions of this section; such reward to be paid from funds of the Board of Transportation."

Sec. 2. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 21st day of February, 1975.

H. B. 50 CHAPTER 12

AN ACT TO AMEND G.S. 163-66 TO REQUIRE THE LIST OF VOTERS FURNISHED THE CHAIRMAN OF EACH POLITICAL PARTY TO BE GROUPED BY PRECINCTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-66 is hereby amended by adding a sentence at the end thereof to read:

"The free list furnished the chairman of each political party shall group the registered voters by precinct and shall be furnished as soon as practical but no later than 30 days after said request."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of February, 1975.

S. B. 21

CHAPTER 13

AN ACT TO INCORPORATE THE TOWN OF BATON, NORTH CAROLINA, AND TO PROVIDE A CHARTER FOR SAID TOWN.

The General Assembly of North Carolina enacts:

Section 1. (a) The Board of Elections in Caldwell County is hereby authorized and directed to call and conduct a special election for the purpose of submitting to the qualified voters of the area hereinafter described as the proposed corporate limits of the Town of Baton, the question of whether or not this area shall be incorporated as a municipal corporation known as the Town of Baton. In conducting the election required to be held by this act, the Board of Elections in Caldwell County shall follow the procedures contained in this act and in Chapter 163 of the General Statutes of North Carolina regarding municipal elections where not in conflict with this act.

(b) Not later than thirty (30) days prior to the date on which the registration books are required to be closed, the Board of Elections in Caldwell County shall cause to be published one or more times in a newspaper having general circulation in the Baton community, a notice stating the time, the polling place, and the purpose of the special election; the names of the registrar and judges of election, the dates, hours, and place or places of registration. The Board of Elections, may, in its discretion, also cause such notice to be posted in such public places as the Board may choose.

(c) In the special election, those voters who favor the incorporation of the Town of Baton as provided in this act shall vote a ballot upon which shall be printed the words: "FOR *Incorporation of the Town of Baton.*"; and those voters who are opposed to the incorporation of the Town of Baton as provided in this act shall vote a ballot upon which shall be printed the words: "AGAINST *Incorporation of the Town of Baton.*"

Sec. 2. If a majority of the votes cast in the special election shall be cast "AGAINST *Incorporation of the Town of Baton,*" then the "Charter of the Town of Baton" as set forth in this act shall have no force and effect.

Sec. 3. If a majority of the votes cast in the special election shall be cast "FOR *Incorporation of the Town of Baton,*" then the "Charter of the Town of Baton" as set forth in this act shall be in full force and effect from and after the date upon which certificates of election shall have been issued by the Chairman of the Caldwell County Board of Elections to the persons designated as Temporary Officers by the "Charter of the Town of Baton" as set forth in this act.

Sec. 4. The following provisions of law shall constitute the Charter of the Town of Baton in Caldwell County:

"The Charter of the Town of Baton

"Article I. Incorporation and Corporate Boundaries

"Sec. 1.1. *Incorporation.* The inhabitants of the area described in Section 1.2 of this Charter shall be and constitute a municipal corporation under the name of the Town of Baton, and as such shall have all the powers, functions, rights, privileges and immunities conferred upon municipal corporations by the laws of the State of North Carolina.

"Sec. 1.2. *Corporate Boundaries.* The corporate boundaries of the Town of Baton, until changed in accordance with law, are as follows:

To begin at a mid-point in the junction of the Cajah's Mountain road (1130) and the Connelly Springs road (1001), extending in a northerly direction to the mid-point in the junction of the Pleasant Hill road (1159) and the Connelly Springs road (1001), and extending in a southerly direction from the mid-point in the junction of the Cajah's Mountain road (1130) and the Connelly Springs road (1001) to a mid-point at the intersection of the Dry Ponds - Valfor road (1115), and the Connelly Springs road (1001), the southern boundary being the established center line of the Dry Ponds - Valfor road (1115), extending thence east three-fourths (3/4) mile from any mid-point of said Connelly Springs road (1001) between the aforesaid northern and southern limits; extending thence west three-fourths (3/4) mile from any mid-point of said Connelly Springs road (1001) between the aforesaid northern and southern limits.

"Article II. Mayor and Town Council

"Sec. 2.1. *Temporary Officers.* Until the initial election provided for by Section 3.1 of this Charter, A. Lee Pearson is hereby appointed Mayor, and George L. Green, Jack Pritchard, Jr., James W. McGinnis, Katheryn S. Power and Dolly Hoyle Seagle are hereby appointed council members of the Town of Baton, and they shall possess and may exercise the powers granted to the Mayor and Town Council until their successors are elected and qualified pursuant to this Charter.

"Sec. 2.2. *Mayor.* The Mayor shall be elected by the qualified voters of the Town, voting at large, for a term of two (2) years. The Mayor shall be the official head of the Town government and shall preside at all meetings of the Town Council. In any matter before the Town Council, the Mayor shall vote only to break a tie vote of the Council, and he shall vote in no other case.

"Sec. 2.3. *Town Council.* The Town Council shall consist of five (5) council members to be elected by the qualified voters of the Town, voting at large. Except as provided for in Section 3.1(b), the members of the Town Council shall serve terms of four (4) years, which terms shall be staggered in accordance with Section 3.1(b) of this Charter.

"Article III. Elections

"Sec. 3.1. *Regular Municipal Elections.* (a) At the regular municipal election in November, 1975, and biennially thereafter, there shall be elected from among the qualified candidates a Mayor of the Town of Baton.

(b) At the regular municipal election in November, 1975, there shall be elected from among the qualified candidates five (5) members of the Town Council of the Town of Baton. The three (3) candidates who receive the largest numbers of votes cast for Town Council member shall be declared elected for terms of four (4) years. The two (2) candidates who receive the next largest numbers of votes cast for Town Council member shall be declared elected for terms of two (2) years. Thereafter, as the term of each member expires, his successor shall be elected for a term of four (4) years.

"Sec. 3.2. *Conduct of Elections.* All municipal elections for the Town of Baton shall be held by the Caldwell County Board of Elections. The regular municipal election for officers of the Town shall be nonpartisan and decided by simple plurality, and shall be held and conducted as provided in Articles 23 and 24 of Chapter 163 of the General Statutes."

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of February, 1975.

H. B. 56 CHAPTER 14

AN ACT TO AMEND THE PLAN OF CONSOLIDATION AND MERGER ENTERED INTO BY THE WAYNE COUNTY BOARD OF EDUCATION AND THE FREMONT CITY BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. The plan of consolidation and merger entered into pursuant to G.S. 115-74.1 between the Wayne County Board of Education and Fremont City Board of Education on July 31, 1967, is amended by rewriting certain designated portions of the plan as follows:

"§ 3(e). The Chairman and the Vice-Chairman of the Wayne County Board of Education shall be elected by the members of said Board of Education at the first regularly scheduled meeting in December of each year."

"§ 5. The compensation to be paid members of the Wayne County Board of Education shall be determined and set by the Wayne County Board of Commissioners."

Sec. 2. All laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of February, 1975.

H. B. 57 CHAPTER 15

AN ACT RELATING TO THE SALE OF CERTAIN PROPERTY BY THE CITY OF BURLINGTON.

The General Assembly of North Carolina enacts:

Section 1. The City Council of the City of Burlington is hereby granted the power to sell and convey the tract of real property described below in this section at a private sale for such consideration and upon such terms as in the judgment of the City Council of the City of Burlington shall be in the best interest of the citizens of the City of Burlington. The said City Council of the City of Burlington is further authorized and empowered, in its discretion, to cause said property to be conveyed with full covenants of warranty:

A certain tract or parcel of land in Burlington Township, Alamance County, North Carolina, adjoining the lands of Front Street United Methodist Church, Dr. C. W. McPherson and City of Burlington property and being more particularly described as follows:

BEGINNING at an iron stake in the line of the City of Burlington property, said iron stake being a corner between property formerly owned by Dr. R. M. Troxler, now Front Street United Methodist Church and Dr. C. W. McPherson and said beginning point being further referenced as being North 55° 23' East 158.83 feet from an iron stake in the northeast property line of West Front Street, said property line on West Front Street being a corner between the former Dr. R. M. Troxler and Dr. C. W. McPherson; thence from said beginning point with Front Street United Methodist Church (formerly Dr. R. M. Troxler), North 32° 25' West 70.17 feet to an iron stake; thence again with the Front

Street United Methodist Church, North 55° 23' 30" East 104.90 feet to an iron stake; thence a new line with the City of Burlington property line along a line three feet south of and parallel to the south right-of-way of West Webb Avenue, South 01° 56' East 83.28 feet to an iron stake; thence again with the City of Burlington property along a new line, South 55° 23' West 62.61 feet to the point of BEGINNING, and containing 5,860.86 square feet.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of February, 1975.

H. B. 78 CHAPTER 16

AN ACT TO AMEND G.S. 85-A-34 TO PROVIDE FOR INCLUSION OF BURKE COUNTY AS A COUNTY SUBJECT TO G.S. 85A, BAIL BONDSMEN AND RUNNERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 85A-34 as the same appears in the 1974 Cumulative Supplement to Volume 2C of the General Statutes is hereby amended by inserting on line 2 before the word "Caldwell" the word "Burke".

Sec. 2. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 25th day of February, 1975.

H. B. 79 CHAPTER 17

AN ACT AUTHORIZING THE RICHMOND COUNTY BOARD OF EDUCATION TO ESTABLISH ORDINANCES REGULATING TRAFFIC AND PARKING ON THE CAMPUS OF THE RICHMOND SENIOR HIGH SCHOOL.

The General Assembly of North Carolina enacts:

Section 1. All of the provisions of Chapter 20 of the General Statutes relating to the use of highways of the State and the operation of motor vehicles thereon are applicable to all streets, alleys, driveways, parking lots, and parking structures on the Richmond Senior High School property, owned and administered by the Richmond County Board of Education.

The Richmond County Board of Education may by ordinance prohibit, regulate, divert, control and limit pedestrian or vehicular traffic and the parking of motor vehicles and other modes of conveyance on the campus of the Richmond Senior High School. In fixing the limits, the Board of Education is not subject to G.S. 20-141(f) or (g), but may fix any speed limit reasonable and safe under the circumstances as conclusively determined by the Board of Education.

The Board of Education may by ordinance provide for the registration of motor vehicles maintained or operated on the campus of Richmond Senior High School by any student, faculty member, or employee of the Board, and may fix fees for such registration. The ordinance may make it unlawful for any person to operate an unregistered motor vehicle on the campus when the vehicle is required by the ordinance to be registered.

The Board of Education may by ordinance set aside parking lots and other parking facilities on the campus for use by students, faculty and employees of the

Board and members of the general public attending high school, conferences, or athletic events being held on the campus of Richmond Senior High School.

The violation of an ordinance adopted by the Richmond County Board of Education under any portion of this act is a misdemeanor punishable by a fine of not more than fifty dollars ($50.00) or imprisonment for not more than 30 days, in the discretion of the court.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of February, 1975.

H. B. 55 CHAPTER 18

AN ACT TO EXTEND THE CORPORATE LIMITS OF THE TOWN OF ALLIANCE.

The General Assembly of North Carolina enacts:

Section 1. The corporate limits of the Town of Alliance are hereby increased and extended to add the following area:

BEGINNING in the northern right-of-way line of the Norfolk-Southern Railway Company's line, it being in the existing northern boundary of the Town of Alliance, at the southeast corner of the lands which were conveyed by Henry Reddick and wife to Frank T. Willis and wife, formerly the John Rawls corner; and running northwardly along and with the east line of said Willis tract about 850 feet to his northeast corner; thence westwardly with the various courses of the Weyerhaeuser-Campen line about 1/2 mile to the southeast corner of Clyde Cowell's cultivated field; thence westwardly with a ditch center line, the southern edge of said field, about 700 feet to the center of the center line of the Tyndall Canal, one of the existing town boundaries; thence southwardly with the Tyndall Canal about 1350 feet to the northern edge of the right-of-way of the Norfolk-Southern Railway; thence eastwardly with said railway right-of-way line about 3,400 feet to the point of BEGINNING.

Sec. 2. Upon the ratification of this act, the annexed territory and its citizens and property are subject to all debts, laws, ordinances, and regulations of the Town of Alliance. The annexed territory is subject to town taxes levied for the fiscal year beginning July 1, 1975. The Town shall, for purposes of levying those taxes within the annexed territory, obtain from the county a record of property in the territory that was listed for taxation as of January 1, 1975.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of February, 1975.

S. B. 102

CHAPTER 19

AN ACT TO AMEND VARIOUS SECTIONS OF THE GENERAL STATUTES TO MAKE TECHNICAL CORRECTIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1-567.2(a) as the same appears in the 1974 Cumulative Supplement to Volume 1A of the General Statutes is hereby amended on line 7 by deleting the word "justifiable" and inserting in lieu thereof the word "justiciable".

Sec. 2. G.S. 7A-56 as the same appears in the 1974 Cumulative Supplement to Volume 1B of the General Statutes is hereby amended on line 3 by deleting the word "(such)" and inserting in lieu thereof the word "such".

Sec. 3. G.S. 7A-286(6) as the same appears in the 1974 Cumulative Supplement of Volume 1B of the General Statutes is hereby amended in the last sentence by deleting the words "in (is)" and inserting in lieu thereof the word "is".

Sec. 4. G.S. 14-288.4(a)(5) as the same appears in the 1974 Cumulative Supplement to Volume 1B of the General Statutes is hereby amended at the end thereof by deleting the word "(or)" and inserting in lieu thereof the word "or".

Sec. 5. G.S. 18A-39(6) as the same appears in the 1974 Cumulative Supplement to Volume 1C of the General Statutes is hereby amended on line 4 by deleting the words "of (or)" and inserting in lieu thereof the word "or".

Sec. 6. G.S. 20-137.7(4)c. as the same appears in the 1974 Cumulative Supplement to Volume 1C of the General Statutes is hereby amended at the beginning thereof by deleting the word "(Whose)" and inserting in lieu thereof the word "Whose".

Sec. 7. G.S. 28A-3-2(b) as the same appears in the 1974 Cumulative Supplement to Volume 2A of the General Statutes is hereby amended on line 4 by deleting the figure "G.S. 28A-11-5" and inserting in lieu thereof the figure "G.S. 28A-11-4".

Sec. 8. G.S. 28A-9-2(a)(6) as the same appears in the 1974 Cumulative Supplement to Volume 2A of the General Statutes is hereby amended on lines 1 and 2 by deleting the words "and appraisal report".

Sec. 9. G.S. 28A-13-3(a)(23) as the same appears in the 1974 Cumulative Supplement to Volume 2A of the General Statutes is hereby amended on line 6 by deleting the figure "G.S. 28A-18-2(b)(3)" and inserting in lieu thereof the figure "G.S. 28A-18-2(b)(4)".

Sec. 10. G.S. 28A-26-8(d)(2) as the same appears in the 1974 Cumulative Supplement to Volume 2A of the General Statutes is hereby amended on line 3 by deleting the words "as provided by G.S. 28A-19-6".

Sec. 11. G.S. 28A-26-8(d)(3) as the same appears in the 1974 Cumulative Supplement to Volume 2A of the General Statutes is hereby amended on line 3 by deleting the words "as provided by G.S. 28A-19-6".

Sec. 12. Section 5 of Chapter 1329 of the 1973 Session Laws is hereby amended following the word "effective" by inserting the words "as to the estates of decedents dying".

Sec. 13. G.S. 37-21(a)(1) as the same appears in the 1974 Cumulative Supplement to Volume 2A of the General Statutes is hereby amended on line 4 by deleting the word "(and)" and inserting in lieu thereof the word "and".

Sec. 14. G.S. 41-2.1(b)(4) as the same appears in the 1974 Cumulative Supplement to Volume 2A of the General Statutes is hereby amended on lines 4 and 5 by deleting the words "in accordance with G.S. 28-68,".

Sec. 15. G.S. 47-41 as the same appears in the 1974 Cumulative Supplement to Volume 2A of the General Statutes is hereby amended on line 6 following the words "or assistant trust officer" by inserting the words ", or chairman or vice-chairman".

Sec. 16. G.S. 47-41 as the same appears in the 1974 Cumulative Supplement to Volume 2A of the General Statutes is hereby further amended on line 11 by deleting the words "or (of)" and inserting in lieu thereof the word "of".

Sec. 17. G.S. 55-50(m) as the same appears in the 1974 Cumulative Supplement to Volume 2B of the General Statutes is hereby amended on line 4 by deleting the words "given (give)" and inserting in lieu thereof the word "give".

Sec. 18. G.S. 58-248.34(d) as the same appears in the 1974 Cumulative Supplement to Volume 2B of the General Statutes is hereby amended on line 2 by deleting the words "of (or)" and inserting in lieu thereof the word "or".

Sec. 19. G.S. 74B-15(b) as the same appears in the 1974 Cumulative Supplement to Volume 2C of the General Statutes is hereby amended on line 2 by deleting the word "this" and inserting in lieu thereof the word "the".

Sec. 20. G.S. 78A-18(b) as the same appears in the 1974 Cumulative Supplement to Volume 2C of the General Statutes is hereby amended on lines 1 and 2 by deleting the words "providing (proving)" and inserting in lieu thereof the word "proving".

Sec. 21. G.S. 78A-27(b)(6) as the same appears in the 1974 Cumulative Supplement to Volume 2C of the General Statutes is hereby amended on line 5 by deleting the words "of (or)" and inserting in lieu thereof the word "or".

Sec. 22. G.S. 78A-56(j) as the same appears in the 1974 Cumulative Supplement to Volume 2C of the General Statutes is hereby amended on lines 3 and 4 by deleting the figures "78A-37(e) (G.S. 78A-37(d))" and inserting in lieu thereof the figure "78A-37(d)".

Sec. 23. G.S. 89-8 as the same appears in the 1974 Cumulative Supplement to Volume 2C of the General Statutes is hereby amended in the fifth unnumbered paragraph by deleting the words "failure of reason (reason of failure)" and inserting in lieu thereof the words "reason of failure"; and is further amended in the fifth unnumbered paragraph by deleting the words "its (their)" and inserting in lieu thereof the word "their"; and is further amended in the fifth unnumbered paragraph by deleting the words "they have (he has)" and inserting in lieu thereof the words "he has".

Sec. 24. G.S. 90-118(c) as the same appears in the 1974 Cumulative Supplement to Volume 2C of the General Statutes is hereby amended on line 3 by deleting the word "(a)" and inserting in lieu thereof the word "a".

Sec. 25. G.S. 90-226(d) as the same appears in the 1974 Cumulative Supplement to Volume 2C of the General Statutes is hereby amended at the end thereof by deleting the figures "G.S. 90-231 (G.S. 90-232)" and inserting in lieu thereof the figures "G.S. 90-232".

Sec. 26. G.S. 95-17 as the same appears in the 1974 Cumulative Supplement to Volume 2C of the General Statutes is hereby amended in the

fifth unnumbered paragraph by deleting the word "(Law)" and inserting in lieu thereof the word "Law".

Sec. 27. G.S. 105-42(b) as the same appears in the 1974 Cumulative Supplement to Volume 2D of the General Statutes is hereby amended on line 3 thereof by deleting the figures "G.S. 49.2 (G.S. 66-49.1)" and inserting in lieu thereof the figure "G.S. 66-49.1".

Sec. 28. G.S. 105-130.11(a)(2) as the same appears in the 1974 Cumulative Supplement to Volume 2D of the General Statutes is hereby amended on line 1 by deleting the word "and" following the word "Every".

Sec. 29. G.S. 105-259, as the same appears in the 1974 Cumulative Supplement to Volume 2D of the General Statutes is hereby amended in the first unnumbered paragraph by deleting the words beginning with "(Provided . . " and ending with ". . . paragraph.)" and inserting in lieu thereof the words:

"Provided, that when an election is made by a husband and wife under G.S. 105-152(e) to file their separate returns on a single form, any information given to one spouse concerning the income or income tax of the other spouse reported or reportable on such single return shall not be deemed to be in violation of the provisions of this paragraph."

Sec. 30. G.S. 106-65.28(a)(1) as the same appears in the 1974 Cumulative Supplement to Volume 3A of the General Statutes is hereby amended on line 4 by deleting the word "of" and inserting in lieu thereof the word "or".

Sec. 31. G.S. 106-143 as the same appears in the 1974 Cumulative Supplement to Volume 3A of the General Statutes is hereby amended on line 6 by deleting the words "for (or)" and inserting in lieu thereof the word "or".

Sec. 32. G.S. 106-284.41(a)(2) as the same appears in the 1974 Cumulative Supplement to Volume 3A of the General Statutes is hereby amended on line 2 by deleting the figure "(21)" and inserting in lieu thereof the figure "21".

Sec. 33. G.S. 106-418.3(5) as the same appears in the 1974 Cumulative Supplement to Volume 3A of the General Statutes is hereby amended on line 2 by deleting the figure "G.S. 104-406" and inserting in lieu thereof the figure "G.S. 106-406".

Sec. 34. G.S. 106-418.11(a) as the same appears in the 1974 Cumulative Supplement to Volume 3A of the General Statutes is hereby amended on the last line thereof by deleting the word "license" and inserting in lieu thereof the word "licensee".

Sec. 35. G.S. 111-4 as the same appears in the 1974 Cumulative Supplement to Volume 3A of the General Statutes is hereby amended on line 1 by deleting the words "this (the)" and inserting in lieu thereof the word "the".

Sec. 36. G.S. 113-315.18 as the same appears in the 1974 Cumulative Supplement to Volume 3A of the General Statutes is hereby amended on line 3 by deleting the words "its (his)" and inserting in lieu thereof the word "his".

Sec. 37. G.S. 113-394(c) as the same appears in the 1974 Cumulative Supplement to Volume 3A of the General Statutes is hereby amended on lines 8 and 9 by deleting the words "I of section 9 of this law (G.S. 113-392, subsection (d))" and inserting in lieu thereof the figure "G.S. 113-392(d)".

Sec. 38. G.S. 113-394(d) as the same appears in the 1974 Cumulative Supplement to Volume 3A of the General Statutes is hereby amended on line 8

by deleting the words "one of section nine of this law (G.S. 113-392, subsection (d))" and by inserting in lieu thereof the figures "G.S. 113-392(d)".

Sec. 39. G.S. 115-321 as the same appears in the 1974 Cumulative Supplement to Volume 3A of the General Statutes is hereby amended on line 4 by deleting the words "a (the)" and inserting in lieu thereof the word "the".

Sec. 40. G.S. 121-12(d) is hereby amended on line 4 by deleting the words "as (an)" and inserting in lieu thereof the word "an".

Sec. 41. G.S. 122-7.1(a) is hereby amended on line 3 by deleting the word "(The)" and inserting in lieu thereof the word "The".

Sec. 42. G.S. 122A-3(8) as the same appears in the 1974 Cumulative Supplement to Volume 3B of the General Statutes is hereby amended on line 3 by deleting the words "by (for)" and inserting in lieu thereof the word "for".

Sec. 43. G.S. 122A-4 as the same appears in the 1974 Cumulative Supplement to Volume 3B of the General Statutes is hereby amended on lines 18 and 19 by deleting the words "housing public policy (public housing policy)" and inserting in lieu thereof the words "public housing policy".

Sec. 44. G.S. 131-83 is hereby amended on line 8 by deleting the words "are (is)" and inserting in lieu thereof the word "is"; and is further amended on line 10 by deleting the words "their (its)" and inserting in lieu thereof the word "its".

Sec. 45. G.S. 136-63 is hereby amended on line 6 by deleting the words "his (its)" and inserting in lieu thereof the word "its".

Sec. 46. G.S. 136-89.32(3) is hereby amended on line 1 by deleting the words "word (words)" and inserting in lieu thereof the word "words".

Sec. 47. G.S. 136-115(2) is hereby amended on line 3 by deleting the words "words (word)" and inserting in lieu thereof the word "word".

Sec. 48. G.S. 143-127.1(c) is hereby amended on line 6 by deleting the words "on (of)" and inserting in lieu thereof the word "of".

Sec. 49. G.S. 143-166.2 as the same appears in the 1974 Cumulative Supplement to Volume 3C of the General Statutes is hereby amended on line 3 by deleting the word "indicated" and inserting in lieu thereof the word "indicates".

Sec. 50. G.S. 143-214.1(e) (1) as the same appears in the 1974 Cumulative Supplement to Volume 3C of the General Statutes is hereby amended on line 9 by deleting the word "(the)" and inserting the word "the".

Sec. 51. G.S. 143-215.1(c)(2) as the same appears in the 1974 Cumulative Supplement to Volume 3C of the General Statutes is hereby amended on line 2 by deleting the word "(the)" and inserting in lieu thereof the word "the".

Sec. 52. G.S. 143-215.2(d) as the same appears in the 1974 Cumulative Supplement to Volume 3C of the General Statutes is hereby amended on line 3 by deleting the word "(pursuant)" and inserting in lieu thereof the word "pursuant".

Sec. 53. G.S. 143-215.114(a)(1)e. as the same appears in the 1974 Cumulative Supplement to Volume 3C of the General Statutes is hereby amended on lines 1 and 2 by deleting the words "of (or)" and inserting in lieu thereof the word "or".

Sec. 54. G.S. 143-283.7 is hereby amended on line 6 by deleting the words "requests (bequests)" and inserting in lieu thereof the word "bequests".

Sec. 55. G.S. 143A-98.1(a) is hereby amended on line 16 by deleting the words "or (of)" and inserting in lieu thereof the word "of".

Sec. 56. G.S. 143B-85(1) is hereby amended on line 2 by deleting the words "of (on)" and inserting in lieu thereof the word "on".

Sec. 57. G.S. 143B-142(2)d. is hereby amended on line 1 by deleting the word "(to)" and inserting in lieu thereof the word "to".

Sec. 58. G.S. 143B-251 is hereby amended on line 2 by deleting the words "Reorganization (Organization)" and inserting in lieu thereof the word "Organization".

Sec. 59. G.S. 147-45 as the same appears in the 1974 Cumulative Supplement to Volume 3C of the General Statutes is hereby amended by deleting the words "Barbara Scotia College" and inserting in lieu thereof the words "Barber-Scotia College".

Sec. 60. G.S. 153A-63 is hereby amended on line 3 by deleting the figure "G.S. 153A-47" and inserting in lieu thereof the figure "G.S. 153A-48".

Sec. 61. G.S. 153A-445(a)(2) is hereby amended on line 1 by deleting the words "Article 21 (Article 20)" and inserting in lieu thereof the words "Article 20".

Sec. 62. G.S. 159-178 as the same appears in the 1974 Cumulative Supplement to Volume 3D of the General Statutes is hereby amended on line 3 by deleting the words "(or municipality)" and inserting in lieu thereof the words "or municipality".

Sec. 63. G.S. 159A-3(6a)e. as the same appears in the 1974 Cumulative Supplement to Volume 3D of the General Statutes is hereby amended on line 4 by deleting the words "on (an)" and inserting in lieu thereof the word "an".

Sec. 64. G.S. 160A-101(6) as the same appears in the 1974 Cumulative Supplement to Volume 3D of the General Statutes is hereby amended by deleting the words "(single-member)" wherever they appear and inserting in lieu thereof the words "single-member".

Sec. 65. G.S. 163-22(c) as the same appears in the 1974 Cumulative Supplement to Volume 3D of the General Statutes is hereby amended in the third, fourth and fifth sentences by inserting the words "or municipal" after the word "county" and before the word "board" wherever those words appear.

Sec. 66. G.S. 163-30 as the same appears in the 1974 Cumulative Supplement to Volume 3D of the General Statutes is hereby amended on line 8 of the fifth unnumbered paragraph by deleting the words "taking (take)" and inserting in lieu thereof the word "take"; and is further amended in the last sentence thereof by deleting the word "(dollars)" and inserting in lieu thereof the word "dollars".

Sec. 67. G.S. 163-42 as the same appears in the 1974 Cumulative Supplement to Volume 3D of the General Statutes is hereby amended in the third unnumbered paragraph by deleting the words "elections (election)" and inserting in lieu thereof the word "election".

Sec. 68. G.S. 163-110 is hereby amended on line 7 by deleting the words "all township offices,".

Sec. 69. G.S. 163-227(4) as the same appears in the 1974 Cumulative Supplement to Volume 3D of the General Statutes is hereby amended in the first paragraph following G.S. 163-227(4)b by deleting the words "(the Board's)"; and is further amended in the second sentence of the second

paragraph following G.S. 163-227(4)b by deleting the word "his" and inserting in lieu thereof the words "the board's".

Sec. 70. G.S. 163-280(a) as the same appears in the 1974 Cumulative Supplement to Volume 3D of the General Statutes is hereby amended on line 11 by deleting the words "offices (officers)" and inserting in lieu thereof the word "officers".

Sec. 71. G.S. 165-22.1(d) as the same appears in the 1974 Cumulative Supplement to Volume 3D of the General Statutes is hereby amended on line 5 by deleting the words "an (a)" and inserting in lieu thereof the word "a".

Sec. 72. G.S. 166-10 as the same appears in the Cumulative Supplement to Volume 3D of the General Statutes is hereby amended on lines 3 and 4 by deleting the figures "G.S. 153-65 (G.S. 153A-149)" and inserting in lieu thereof the figure "G.S. 153A-149".

Sec. 73. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of February, 1975.

H. B. 48

CHAPTER 20

AN ACT TO AMEND G.S. 160A-241 SO AS TO AUTHORIZE MUNICIPALITIES AND POLITICAL DIVISIONS OF MUNICIPALITIES TO USE THE PROCEDURE PROVIDED IN ARTICLE 9 OF CHAPTER 136 OF THE GENERAL STATUTES AS SPECIFICALLY AUTHORIZED BY G.S. 136-66.3(c) IN ACQUIRING LANDS, EASEMENTS, PRIVILEGES, RIGHTS-OF-WAY AND OTHER INTERESTS FOR PUBLIC PURPOSES IN THE EXERCISE OF THE POWER OF EMINENT DOMAIN, AND PROVIDING THAT THIS ACT SHALL APPLY ONLY TO THE CITY OF CONCORD AND THE TOWN OF BAYBORO.

The General Assembly of North Carolina enacts:

Section 1. Section 160A-241 of the General Statutes of North Carolina is hereby amended by adding at the end thereof, a new paragraph to read as follows:

"The procedures provided in Article 9 of Chapter 136 of the General Statutes, as specifically authorized by G.S. 136-66.3(c), shall be applicable in the case of acquisition by a municipal corporation, or a political division thereof, of lands, easements, privileges, rights-of-way, and other interests in real property for sewer lines, water lines, electric power lines, and other utility lines in the exercise of the power of eminent domain; and such municipal corporation, or a political division thereof, seeking to acquire such property of rights or easements therein or thereto shall have the right and authority, at its option and election, to use the provisions and procedures as authorized and provided in G.S. 136-66.3(c) and Article 9 of Chapter 136 of the General Statutes for any of said purposes without being limited to streets constituting a part of the State Highway System."

Provided, however, that the provisions of this section shall not apply with regard to properties owned by public service corporations as defined in G.S. 160A-243(c) unless the exercise of such power of eminent domain is either consented to by the owner of the property to be acquired by the city or, otherwise, first adjudicated after notice and a hearing that such acquisition will

not prevent or unreasonably impair the continued devotion to the public use of such properties and the operation by such public service corporation.

Sec. 2. This act shall apply only to the City of Concord and the Town of Bayboro.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of February, 1975.

H. B. 49 CHAPTER 21

AN ACT TO AMEND G.S. 153A-159 SO AS TO AUTHORIZE COUNTIES TO USE THE PROCEDURE PROVIDED IN ARTICLE 9 OF CHAPTER 136 OF THE GENERAL STATUTES IN ACQUIRING LANDS, EASEMENTS, PRIVILEGES, RIGHTS-OF-WAY AND OTHER INTERESTS FOR PUBLIC PURPOSES IN THE EXERCISE OF THE POWER OF EMINENT DOMAIN, AND PROVIDING THAT THIS ACT SHALL APPLY ONLY TO CABARRUS COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Section 153A-159 of the General Statutes of North Carolina is hereby amended by adding thereto as a new paragraph the following words and figures:

"The procedures provided in Article 9 of Chapter 136 of the General Statutes shall be applicable in the case of acquisition by a county of lands, easements, privileges, rights-of-way, and other interests in real property for sewer lines, water lines, electric power lines, and other utility lines in the exercise of the power of eminent domain. Whenever the words 'Board of Transportation' appear in Article 9 of Chapter 136 of the General Statutes they shall be deemed to include 'county' or 'County Commissioners', and wherever the words 'Administrator', 'Administrator of Highways', 'Administrator of the Board of Transportation', or 'Chairman of the Board of Transportation' appear in Article 9 of Chapter 136 of the General Statutes they shall be deemed to include 'clerk to the board of commissioners'."

Provided, however, that the provisions of this section shall not apply with regard to properties owned by public service corporations as defined in G.S. 160A-243(c) unless the exercise of such power of eminent domain is either consented to by the owner of the property to be acquired by the city or, otherwise, first adjudicated after notice and a hearing that such acquisition will not prevent or unreasonably impair the continued devotion to the public use of such properties and the operation by such public service corporation.

Sec. 2. This act shall apply only to Cabarrus County.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of February, 1975.

H. B. 120 **CHAPTER 22**

AN ACT TO AMEND G.S. 148-33.1 PERTAINING TO THE SENTENCING, QUARTERING, AND CONTROL OF PRISONERS WITH WORK PRIVILEGES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 148-33.1(a) is amended to read as follows:

"(a) Whenever a person is sentenced to imprisonment for a term not exceeding five years to be served in the State prison system, the Secretary of the Department of Correction may authorize the Director of Prisons to grant work-release privileges to any such inmate as may be eligible for the program as hereinafter established. The Department of Correction, upon recommendation of the presiding judge, shall immediately issue temporary work release privileges to any inmate so recommended upon verification of employment or at such time after commitment to the Department of Correction as employment can be obtained and verified."

Sec. 2. G.S. 148-33.1(b) as found in the 1974 Cumulative Supplement to Volume 3C, is amended to read as follows:

"(b) The Parole Commission of this State may authorize the State Department of Correction to grant work-release privileges to any inmate of the State prison system serving a term of greater than five years: provided, that if the inmate thus being considered for work-release privileges has not yet served a fourth of his sentence if determinate or a fourth of his minimum sentence if indeterminate, the Parole Commission shall not authorize the Department of Correction to grant him work-release privileges without considering the recommendations of the presiding judge of the court which imposed the sentence."

Sec. 3. G.S. 148-33.1(d) as found in the 1974 Cumulative Supplement to Volume 3C is amended by deleting the second sentence therein.

Sec. 4. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 27th day of February, 1975.

H. B. 152 **CHAPTER 23**

AN ACT TO ABOLISH THE POSITION OF HARBOR MASTER FOR THE PORT OF WILMINGTON.

The General Assembly of North Carolina enacts:

Section 1. The position and office of Harbor Master for the Port of Wilmington is hereby abolished.

Sec. 2. The last sentence of G.S. 76-1 is deleted.

Sec. 3. G.S. 76-18 is repealed.

Sec. 4. All laws in conflict with this act are repealed.

Sec. 5. This act shall become effective May 5, 1975, unless ratified at a later date, and should that event occur then the bill will become effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of February, 1975.

S. B. 59

CHAPTER 24

AN ACT TO REPEAL ARTICLE 43 OF CHAPTER 106 RELATING TO REPORTS OF SALES AND USE OF COMBINES TO HARVEST CROPS.

The General Assembly of North Carolina enacts:

Section 1. Article 43 of Chapter 106 of the General Statutes of North Carolina as the same appears in Volume 3A, 1966 Replacement Volume is hereby repealed.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of February, 1975.

S. B. 82

CHAPTER 25

AN ACT TO AUTHORIZE THE TOWN OF ATKINSON TO CONVEY REAL PROPERTY TO A NONPROFIT CORPORATION.

Whereas, the Town of Atkinson is the owner of a tract or parcel of land consisting of 0.918 acre, more or less;

Whereas, the citizens of Atkinson, in concert with residents of the surrounding area, have formed a corporation known as Black River Health Services, Inc., and are in the process of obtaining assistance for the construction of a health clinic for the use and benefit of the public; and

Whereas, the Town of Atkinson, through its Board of Town Commissioners, has declared its intent and desire to transfer said tract or parcel of land to Black River Health Services, Inc., for the construction of a health clinic thereon; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The Town of Atkinson is hereby authorized and empowered to convey, by deed of gift, the following described property to Black River Health Services, Inc.:

BEGINNING at an iron pipe at the intersection of the Northern line of Main Street and with the Eastern line of Stringfield Street, (each street having a 50-foot wide right of way) and running thence from said Beginning iron pipe, so located, with the Eastern line of Stringfield Street, North 32° 30' West 200.00 feet to an iron pipe in said line; thence North 57° 30' East 200.00 feet to an iron pipe; thence South 32° 30' East 200.00 feet to an iron pipe in the Northern line of Main Street; thence with said line, South 57° 30' West 200.00 feet to the Beginning, containing 0.918 acre, more or less, as surveyed by Dosher Surveying Company, P.A. in August 1974.

Sec. 2. The deed shall provide that the parcel or tract of land described in Section 1 shall revert to the Town of Atkinson in the event that said property ceases to be used for the provision of health services to the public.

Sec. 3. The deed may contain such other conditions and provisions as the Town of Atkinson shall deem necessary, as long as said conditions and provisions are consistent with the laws of the State of North Carolina.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of February, 1975.

H. B. 103 **CHAPTER 26**

AN ACT TO MODIFY THE PROVISIONS OF G.S. 159-64 AS APPLIED TO BONDS AUTHORIZED DURING THE CALENDAR YEAR 1970 EXTENDING THE TIME WITHIN WHICH SUCH BONDS MAY BE ISSUED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 159-64 is hereby amended by striking out the words "five years" in the second line thereof and inserting in lieu thereof the words "seven years".

Sec. 2. The provisions of this act shall apply only to the bonds authorized during the period January 1, 1970, through December 31, 1970.

Sec. 3. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of February, 1975.

H. B. 219 **CHAPTER 27**

AN ACT TO SET THE SALARY OF THE REGISTER OF DEEDS AND ASSISTANT REGISTER OF DEEDS IN SWAIN COUNTY AND TO PROVIDE ADEQUATE SPACE, AND EQUIPMENT FOR SAID OFFICE, AND TO PROVIDE FOR FEES TO BE CHARGED BY THE REGISTER OF DEEDS.

The General Assembly of North Carolina enacts:

Section 1. The Board of County Commissioners of Swain County shall pay the Register of Deeds of Swain County an annual salary of at least eight thousand four hundred dollars ($8,400), to be paid in equal monthly installments. The Board of County Commissioners shall not reduce the salary of the register of deeds as provided in G.S. 153A-92.

Sec. 2. The Register of Deeds of Swain County is authorized to appoint and employ an assistant register of deeds. The Board of County Commissioners shall pay the assistant register of deeds an annual salary of not less than six thousand dollars ($6,000), to be paid in equal monthly installments.

Sec. 3. The Board of County Commissioners shall furnish the register of deeds adequate office space, materials, supplies and equipment for the proper and efficient performance of the functions and duties of the register of deeds and his staff.

Sec. 4. In the performance of his duties, the Register of Deeds of Swain County shall collect the fees set forth in G.S. 161-10. Such fees shall be collected prior to filing, registration, recordation, certification or other service rendered by the register of deeds unless by law it is provided that the service shall be rendered without charge. All fees collected by the register of deeds shall be paid to the county treasurer for deposit in the General Fund of the County.

Sec. 5. This act shall become effective March 1, 1975.

In the General Assembly read three times and ratified, this the 28th day of February, 1975.

H. B. 172 **CHAPTER 28**

AN ACT TO AMEND CHAPTER 93A OF THE GENERAL STATUTES, RELATING TO REAL ESTATE BROKERS AND SALESMEN, SO AS TO PROVIDE THAT TRUST OR ESCROW ACCOUNTS BE MAINTAINED IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. G.S. 93A-6(a)(12), as the same appears in the 1974 Cumulative Supplement to Volume 2C of the General Statutes, is amended by inserting in the third line thereof between the words "association" and "all" the words "in North Carolina".

Sec. 2. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 4th day of March, 1975.

H. B. 186 **CHAPTER 29**

AN ACT TO AMEND G.S. 87-43.3 TO INCREASE THE PROJECT VALUE LIMITATION OF THE LIMITED ELECTRICAL CONTRACTING LICENSE CLASSIFICATION FROM FIVE THOUSAND DOLLARS ($5,000) TO TEN THOUSAND DOLLARS ($10,000).

The General Assembly of North Carolina enacts:

Section 1. G.S. 87-43.3, as the same appears in the 1974 Cumulative Supplement to Volume 2C of the General Statutes of North Carolina, is hereby amended by deleting the words and figures, "five thousand dollars ($5,000)", as said words and amount appear in Line 4 of said section and by inserting in lieu thereof the words and figures, "ten thousand dollars ($10,000)".

Sec. 2. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 4th day of March, 1975.

H. B. 35 **CHAPTER 30**

AN ACT TO ANNEX ADDITIONAL TERRITORY TO THE CITY OF STATESVILLE.

The General Assembly of North Carolina enacts:

Section 1. The corporate limits of the City of Statesville is hereby enlarged by the annexation of the following area into the City of Statesville:

Beginning at a concrete monument situated on the eastern side of Harris Street Extension and South of the Duke Power Company power transmission line, a new city limits corner in the line of the present city limits, said point having a N. C. Plane Coordinates value of N. 738,315.35, and E. 1,443,710.16; said point being situated N. 3-41-00 E., 1495.32 feet from the Southwest corner of the extension of the corporate limits by Ordinance of November 16, 1970, plat of which is recorded in Plat Book 10, page 62, Iredell County Register of Deeds; thence running with a new city limits line S. 73-33-50 W., 154.90 feet to an existing iron stake on the West bank of a small stream, said point being an angle point in the present city limits line and having a N. C. Plane Coordinates value of N. 738,271.53, and E. 1,443,561.59, said point being situated N. 73-33-50 E., 295.59 feet from an existing concrete monument, the Southwest

corner of the extension of the corporate limits by Ordinance of March 6, 1972, plat of which is recorded in Plat Book 11, page 27 of the Iredell County Register of Deeds; thence running with the present city limits as shown on the aforementioned plats, the following courses: N. 8-53-10 W., 739.04 feet; and N. 73-00-00 W., 123.36 feet; and N. 61-49-05 E., 748.61 feet; and S. 3-34-50 W., 87.73 feet; and S. 3-11-15 W., 42.13 feet; and N. 85-59-30 W., 130.48 feet and S. 3-34-50 W., 250.48 feet; and S. 31-11-15 W., 131.90 feet; and S. 3-41-00 W., 601.60 feet; to the point of beginning. Being a traverse encompassing an area of 5.89 acres. The horizontal datum and coordinate values noted herein were derived from information shown on the aforementioned Plat recorded in Plat Book 10, page 62, Iredell County Register of Deeds.

Sec. 2. From and after the ratification of this act, the territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in such municipality and shall be entitled to the same privileges and benefits as other parts of such municipality. The newly annexed territory shall be subject to municipal taxes levied for the fiscal year following the date of annexation. If the effective date of annexation falls between January 1 and June 30, the municipality shall, for purposes of levying taxes for the fiscal year beginning July 1 following the date of annexation, obtain from the county a record of property in the area being annexed which was listed for taxation as of said January 1. If the effective date of annexation falls between June 1 and June 30, and the effective date of the privilege license tax ordinance of the annexing municipality is June 1, then businesses in the area to be annexed shall be liable for taxes imposed in such ordinance from and after the effective date of annexation.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of March, 1975.

H. B. 52 CHAPTER 31

AN ACT TO PROVIDE A SUPPLEMENTAL RETIREMENT FUND FOR FIREMEN IN THE CITY OF MONROE AND TO MODIFY THE APPLICATION OF G.S. 118-5, 118-6, AND 118-7 TO THE CITY OF MONROE.

The General Assembly of North Carolina enacts:

Section 1. Supplemental retirement fund created. The Board of Trustees of the Local Firemen's Relief Fund of the City of Monroe, as established in accordance with G.S. 118-6, hereinafter called the Board of Trustees, shall create and maintain a separate fund to be called the Monroe Firemen's Supplemental Retirement Fund, hereinafter called the Supplemental Retirement Fund, and shall maintain books of account for such fund, separate from the books of account of the Firemen's Local Relief Fund of the City of Monroe, hereinafter called the Local Relief Fund. The Board of Trustees shall pay into the Supplemental Retirement Fund the funds prescribed by this act.

Sec. 2. Transfer of funds and disbursements. Notwithstanding the provisions of G.S. 118-7, the Board of Trustees of the Local Firemen's Relief Fund of the City of Monroe shall:

(a) prior to January 1, 1976, transfer to the Supplemental Retirement Fund all funds, including earnings on investments, of the Local Relief Fund in excess of ten thousand dollars ($10,000);

(b) at any time when the amount of the funds in the Local Relief Fund shall by reason of disbursement authorized by G.S. 118-7, be less than ten thousand dollars ($10,000), transfer from the Supplemental Retirement Fund to the Local Relief Fund an amount sufficient to maintain in the Local Relief Fund the sum of ten thousand dollars ($10,000).

Sec. 3. Intention. Any person who is a member of the Monroe Fire Department, as shown by the records of the City of Monroe at the time of ratification of the act, or any person who shall become such a member, shall be eligible for benefits from the Supplemental Retirement Fund: Provided that no such person shall be eligible for benefits from the Supplemental Retirement Fund unless or until such person has been retired as a member of the Monroe Fire Department under the provisions of the retirement system the City of Monroe is under as of that date. It is further provided that this act does not modify or alter in any way the Workmen's Compensation Laws of the State of North Carolina.

Sec. 4. Supplemental retirement benefits. (a) Each full-time fireman of the City of Monroe who retires after January 1, 1975, with 30 years or more of service as a city fireman, is entitled to and shall receive in each calendar month following the calendar month in which he retires a monthly supplemental retirement benefit of fifty dollars ($50.00).

(b) Each full-time fireman of the City of Monroe who retires after January 1, 1975, with 25 years or more of service as a city fireman, and who is 60 years old or older at the time of retirement, is entitled to and shall receive in each calendar month following the calendar month in which he retires a monthly supplemental retirement benefit of fifty dollars ($50.00). However, this entitlement does not apply to any such person who retires for reasons of health or due to injuries received while on the job.

(c) If in any calendar month funds in the Supplemental Retirement Fund are insufficient to pay the benefit amount set out in this section, the Board of Trustees shall specify a lesser amount to be paid.

Sec. 5. Death benefits. The Board of Trustees is hereby authorized to pay the widow and/or the estate of any full-time fireman of the City of Monroe, or any full-time fireman who has retired subsequent to January 1, 1976, who dies subsequent to January 1, 1975, an amount equal to 12 monthly supplemental payments not to exceed six hundred dollars ($600.00).

Sec. 6. Investment of funds. The Board of Trustees is hereby authorized to invest any funds, either of the Local Relief Fund or the Supplemental Retirement Fund, in any investment named in or authorized by G.S. 159-30, only in accordance with the provisions thereof, and is hereby directed to invest all funds of the Supplemental Retirement Fund in one or more of such investments.

Sec. 7. Acceptance of gifts. The Board of Trustees is hereby authorized to accept any gift, grant, bequest or donation of money for the use of the Supplemental Retirement Fund.

Sec. 8. Bond of treasurer. The Board of Trustees shall bond the treasurer of the Local Relief Fund and the Supplemental Retirement Fund be he or she one and the same in an amount at least equal to the amount of funds in his or

her control, payable to the Board of Trustees, and conditioned upon the faithful performance of his or her duties; such bond shall be in lieu of the bond required by G.S. 118-6. The Board of Trustees shall pay from the Supplemental Retirement Fund premiums of the bond of the treasurer.

Sec. 9. If any provisions of this act shall be declared invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions hereof which can be given effect without the invalid provisions, and to this end the provisions of this act are declared to be severable.

Sec. 10. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of March, 1975.

S. B. 69 CHAPTER 32

AN ACT TO AMEND THE UNIFORM ANATOMICAL GIFT ACT TO INCREASE THE NUMBER OF THOSE PERSONS QUALIFIED TO ENUCLEATE EYES.

The General Assembly of North Carolina enacts:

Section 1. Subsection 9 of G.S. 90-220.1 is repealed.

Sec. 2. Subsection 8 of G.S. 90-220.1 is renumbered as Subsection 9 and a new Subsection 8 is added to read as follows:

"(8) 'Qualified individual' means:

(a) an embalmer holding a valid license to practice in this State,

(b) a physician's assistant approved by and registered with the Board of Medical Examiners pursuant to G.S. 90-18(13),

(c) a registered or a licensed practical nurse certified by the Board of Nursing pursuant to Article 9 of Chapter 90 of the General Statutes, or

(d) a student who is enrolled in an accredited school of medicine operating within this State and who has completed two or more years of a course of study leading to the awarding of a degree of doctor of medicine from such school,

and who has completed a course in eye enucleation and has been certified as competent to enucleate eyes by an accredited school of medicine operating within North Carolina."

Sec. 3. The last two sentences of subsection (d) of G.S. 90-220.4 are deleted, and in their place the following paragraph is added:

"In respect to a gift of an eye, a qualified individual, as defined by G.S. 90-220.1(8), may enucleate eyes for such gift after the proper certification of death by a physician andupon the express direction of any physician other than the one who certified the death of the donor."

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of March, 1975.

S. B. 173 **CHAPTER 33**

AN ACT TO REPEAL CHAPTER 825 OF THE 1963 SESSION LAWS OF NORTH CAROLINA RELATING TO PROHIBITION OF AMBULANCE SIRENS IN NEW HANOVER COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 825 of the 1963 Session Laws of North Carolina is hereby repealed.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of March, 1975.

H. B. 72 **CHAPTER 34**

AN ACT MAKING A TECHNICAL AMENDMENT TO THE CHARTER OF THE CITY OF WINSTON-SALEM.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of Chapter 1023 of the 1973 Session Laws of North Carolina is amended by deleting the word and figures "Section 26A" and inserting in lieu thereof the word and figures "Section 36A".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of March, 1975.

H. B. 147 **CHAPTER 35**

AN ACT TO PROVIDE STAGGERED TERMS OF FOUR YEARS FOR MEMBERS OF THE BOARD OF COUNTY COMMISSIONERS OF BRUNSWICK COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The Board of County Commissioners of Brunswick County shall consist of five members who shall serve for staggered terms as herein provided, and who shall be elected at large by the qualified voters of the County. Their terms shall begin on the first Monday in December after their election.

Sec. 2. Beginning with the general election to be held in 1976, the two candidates receiving the highest number of votes shall be elected for terms of four years, and the three candidates receiving the next highest number of votes shall be elected for terms of two years. At the general election in 1978, and every two years thereafter, the two candidates receiving the highest number of votes shall be elected for a term of four years, and the candidate receiving the next highest number of votes shall be elected for a term of two years. Only one member of the County Board of Commissioners shall be elected from any one township of the County.

Sec. 3. Chapter 299, Public-Local Laws of 1933, and Chapter 773, Session Laws of 1959, are hereby repealed.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of March, 1975.

H. B. 191 **CHAPTER 36**

AN ACT TO REVISE THE PROVISIONS FOR FILLING VACANCIES ON THE RUTHERFORD COUNTY BOARD OF COMMISSIONERS.

The General Assembly of North Carolina enacts:

Section 1. The second paragraph of Section 5 of Chapter 75, Public-Local Laws of 1933, which was rewritten by Section 2 of Chapter 365, Session Laws of 1973, and which begins with the word "Vacancies" and ends with the words "of the board.", is hereby repealed.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of March, 1975.

H. B. 200 **CHAPTER 37**

AN ACT TO PROVIDE FOR THE CREATION OF A WINSTON-SALEM SPORTS COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. The Board of Aldermen of the City of Winston-Salem is hereby empowered to create a Winston-Salem Sports Commission to consist of seven citizens who shall be nominated by the Mayor and appointed by the Board of Aldermen. Four shall be appointed to serve four-year terms and three to serve two-year terms. All subsequent terms shall be for four years.

Sec. 2. No member of the Commission shall have any substantial pecuniary interest in any of the sports promoted or regulated by the Commission.

Sec. 3. The Commission shall possess such powers as the Board of Aldermen shall from time to time confer upon it with regard to regulating boxing and wrestling. The Commission shall also possess the power to promote all professional sports now or hereafter presented to the public in Winston-Salem, including, but not limited to, boxing, wrestling, hockey, baseball and automobile racing.

Sec. 4. This act shall apply to the City of Winston-Salem only.

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of March, 1975.

H. B. 208 **CHAPTER 38**

AN ACT TO PERMIT THE BOARD OF COMMISSIONERS OF THE TOWN OF HERTFORD TO CONFER THE DUTIES OF TOWN MANAGER ON THE MAYOR.

The General Assembly of North Carolina enacts:

Section 1. Section 17 of Chapter 586 of the 1965 Session Laws is amended by adding a second paragraph to read as follows:

"The board of commissioners may confer upon the mayor the duties of town manager. If this is done, the mayor shall serve as manager at the pleasure of the board, and the board may, at the time it confers the duties of manager on the mayor or at any time he is serving as manager, increase the mayor's compensation for the period that he serves as manager."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of March, 1975.

S. B. 60 **CHAPTER 39**

AN ACT TO REPEAL ARTICLE 11, CHAPTER 106 OF THE GENERAL STATUTES RELATING TO STOCK AND POULTRY TONICS.

The General Assembly of North Carolina enacts:

Section 1. Article 11 of Chapter 106 of the General Statutes as the same presently appears in Volume 3A, 1966 Replacement Volume is hereby repealed.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of March, 1975.

S. B. 109 **CHAPTER 40**

AN ACT TO REDUCE THE BOND REQUIREMENTS OF GUARDIANS AND TRUSTEES BY THE AMOUNT OF STOCKS, BONDS, SECURITIES AND SAVINGS ON DEPOSIT WITH CERTAIN BUILDING AND LOAN ASSOCIATIONS RELINQUISHED BY SAID GUARDIANS AND TRUSTEES TO THE CLERK OF COURT.

The General Assembly of North Carolina enacts:

Section 1. Article 1 of Chapter 36 of the General Statutes as the same appears in 1966 Replacement Volume 2A is hereby amended by:

a. Rewriting the second paragraph of G.S. 36-4 to read as follows:

"Upon delivery of such registered securities, or, upon the delivery of any savings account passbook issued by virtue of investment in any savings and loan association authorized by G.S. 36-3, or, if a guardian or trustee so elects, upon the delivery of any stocks, bonds, securities and other similar intangible personal property, to the clerk of the superior court of the county in which the estate of said decedent, minor ward, incompetent person, or persons non compos mentis, is being administered and with respect to any such savings accounts, stocks, bonds, securities, and other similar intangible personal properties, the performance by such guardian or trustee of such additional acts (including the execution and delivery of necessary transfer instruments) as are necessary to divest himself of the control of the principal invested therein and to confer control of same upon the clerk, said clerk of the superior court shall give said guardian or trustee a receipt for the same and said clerk of superior court shall thereafter hold same for said estate, ward, incompetent person, or persons non compos mentis, subject only to final disposition thereof to be approved by the resident judge or presiding judge of the superior court: Provided, however, all income accruing therefrom, and payable under the terms of the investment instrument, shall be paid to said guardian or trustee in the same manner and for the same purposes as any other income of said estate derived from other sources."

b. Rewriting the third paragraph of G.S. 36-4 to read as follows:

"Whenever any guardian or trustee shall have delivered to the clerk of the superior court registered securities as hereinbefore provided, he shall be entitled to credit in his account as guardian or trustee for the amount actually expended for such securities, and in addition, after the delivery of such registered

securities, as well as upon the delivery of any savings account passbooks as hereinbefore authorized, or upon the delivery of any of the types of intangible personal property as authorized above, the bond of such guardian or trustee shall thereupon be reduced, as follows:

(1) In the event of the delivery of registered securities, in an amount equal in proportion to the total amount of the bond as the funds expended for the securities are to the total amount of the estate covered by such bond.

(2) In the event of the delivery of savings account passbooks, in an amount equal in proportion to the total amount of the bond as the funds represented actually deposited thereunder bear to the total amount of the estate covered by such bond, provided the Clerk of the Superior Court finds that the guardian or trustee has notified the savings account depository of the transfer of control in manner and form satisfactory to the said Clerk.

(3) In the event of the delivery of any of the hereinabove authorized types of intangible personal property, in an amount equal in proportion to the total amount of the bond as their fair market value bears to the total amount of the estate covered by such bond."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of March, 1975.

S. B. 155 **CHAPTER 41**

AN ACT TO PROVIDE FOR THE MEMBERSHIP OF THE CATAWBA COUNTY BOARD OF ALCOHOLIC CONTROL.

The General Assembly of North Carolina enacts:

Section 1. The Board of Alcoholic Control of Catawba County shall consist of a chairman and four other members. The members of this Board shall be well known for their character, ability, and business acumen. The members of the Board shall be selected jointly, but not necessarily in a joint meeting, by the Board of County Commissioners, the County Board of Health, and the County Board of Education. Each person voting in such selection shall have only one vote, notwithstanding the fact that there may be instances in which some persons are members of another board.

The terms of office of the members of the county board of alcoholic control shall be as follows: the chairman, who shall be so designated by the appointing boards, shall serve for his first term a period of three years, and one member shall serve for his first term a period of two years, and the three remaining members shall serve for a period of one year, all terms beginning with the date of their appointment. After each term has expired, each successor in office shall serve for a period of three years and shall be appointed in the same manner as herein provided in this section.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of March, 1975.

H. B. 64 **CHAPTER 42**

AN ACT TO PROVIDE FOR AN AT-LARGE MEMBER ON THE MARTIN COUNTY BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. Chapter 380 of the Session Laws of 1971 is hereby amended to add the following new section:

"Sec. 5.1. In addition to the membership by District herein before provided, on March 1, 1975, or as soon thereafter as is practical and authorized by the Legislature, the total membership of the Martin County Board of Education shall be expanded by one at-large member so that the total membership of the Board shall be seven. A majority of the membership as it exists on the day of the meeting to appoint this at-large member shall designate the member who shall be sworn as soon as practical and shall have all prerogatives, liabilities and duties of elected membership. The designee shall be a resident of Martin County but need not reside in any particular district. The designated member shall serve until that date in 1978 when elected Board members begin service of new terms. In the 1978 primary election, this at-large seat shall be filled by election as in the case of District members set out in Section 5 except that reference to District shall not be made on the candidate application and the ballot; and the candidate who receives the most votes in the county without reference to district shall be declared elected. Should a vacancy occur in this seat, it may be filled by any Martin County resident as otherwise provided except that residence in the previous member's District shall not be required."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of March, 1975.

H. B. 143 **CHAPTER 43**

AN ACT TO PROVIDE FOR THE ELECTION OF MEMBERS OF THE CHAPEL HILL-CARRBORO CITY BOARD OF EDUCATION AND FIXING FOUR-YEAR STAGGERED TERMS OF OFFICE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 161, Session Laws of 1973, is hereby repealed.

Sec. 2. Section 2 of Chapter 254, Session Laws of 1955 as amended by Section 1 of Chapter 100, Session Laws of 1959, is hereby rewritten to read as follows:

"Section 2. The Chapel Hill-Carrboro City Board of Education shall consist of seven members who shall be elected for staggered terms of four years as herein provided.

The terms of the members elected under this act shall begin on the first Monday in December following their election. The terms of the present members shall not be affected by this act, provided however, the present members shall serve until the first Monday in December following the election of their successors under this act.

At the election to be held in November, 1975, two members shall be elected for terms of four years. Beginning with the election to be held in November, 1977, and every four years thereafter, three members shall be elected for terms

of four years. At the election to be held in November, 1979, and every four years thereafter, four members shall be elected for terms of four years.

The election shall be held and conducted by the Orange County Board of Elections at the same time and under the provisions of Articles 23 and 24 of Chapter 163 of the General Statutes which are applicable to the election of municipal officers in Chapel Hill and Carrboro."

Sec. 3. Section 5 of Chapter 254, Session Laws of 1955, is hereby repealed.

Sec. 4. Vacancies occurring on the Chapel Hill-Carrboro City Board of Education for any reason other than by expiration of the term shall be filled by appointment of the remaining members of the Board. If the member being replaced was serving in the last two years of his four-year term, the appointment to fill the vacancy is for the remainder of the unexpired term. Otherwise, the term of the person appointed to fill the vacancy extends to the first Monday in December next following the first regular school board election held more than 40 days after the vacancy occurs, and at that election, a person shall be elected to the seat vacated, either to the remainder of the unexpired term or, if the term has expired, to a full term.

If at any election for members of the Chapel Hill-Carrboro City Board of Education vacancies have occurred and there are both regular four-year terms and two-year unexpired terms to be filled by election, the candidates elected with the greatest numbers of votes shall be elected for regular four-year terms, and the candidates elected with the lowest numbers of votes shall be elected to fill the remainder of the unexpired terms.

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of March, 1975.

S. B. 8 CHAPTER 44

AN ACT PERMITTING THE AWARD OF GUNS AND BADGES TO CITY AND COUNTY LAW ENFORCEMENT OFFICERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-187.2, as the same presently appears in the 1974 Cumulative Supplement to Volume 1C of the General Statutes is hereby amended in line 2 by inserting the words and punctuation ", city and county" between the phrases "North Carolina State" and "law-enforcement agencies", now appearing together in the statute.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of March, 1975.

S. B. 119 **CHAPTER 45**

AN ACT TO AMEND G.S. 62-81 TO ALLOW RATE CASES TO BE HEARD BY A DIVISION OF THE UTILITIES COMMISSION, HEARING COMMISSIONER OR HEARING EXAMINER.

The General Assembly of North Carolina enacts:

Section 1. G.S. 62-81 is hereby amended by striking out the letter (a) at the beginning of paragraph 1, by deleting from the second sentence of said first paragraph the words "Such cases shall be heard by the full Commission, and," and by further rewriting the remainder of said sentence to read as follows: "The Commission shall furnish a transcript of the evidence and testimony presented on the earliest practicable date after the taking thereof."; and by striking out subsection (b) of said G.S. 62-81 in its entirety.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of March, 1975.

H. B. 67 **CHAPTER 46**

AN ACT TO AMEND G.S. 20-24(a) PERTAINING TO REPORTING OF CONVICTIONS TO DEPARTMENT OF MOTOR VEHICLES BY COURT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-24(a) is amended by inserting after the word "Department" appearing at the end of the first paragraph the words "within thirty (30) days".

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 12th day of March, 1975.

S. B. 63 **CHAPTER 47**

AN ACT TO PROHIBIT THE PLACING OF NON-LAW ENFORCEMENT PERSONNEL IN SUPERVISORY POSITIONS WITHIN THE STATE HIGHWAY PATROL.

The General Assembly of North Carolina enacts:

Section 1. Article 4 of Chapter 20 of the General Statutes of North Carolina is hereby amended by adding a new section to be designated G.S. 20-196.3 and to read as follows:

"§ 20-196.3. *Uniformed officers - supervisory positions.*—Notwithstanding any other provision of the General Statutes of North Carolina, it shall be unlawful for any person other than the Governor and the Secretary of the Department of Transportation and other than a uniformed member of the North Carolina State Highway Patrol who has met all requirements for employment within the Patrol, including but not limited to completion of the basic Patrol school, to hold any supervisory position over uniformed personnel within the Patrol."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of March, 1975.

H. B. 18 **CHAPTER 48**

AN ACT TO ELIMINATE RETROACTIVELY WELFARE LIENS AND CLAIMS CREATED PURSUANT TO G.S. 108-29 PRIOR TO APRIL 16, 1973.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 204 of the Session Laws of 1973 is hereby amended to read as follows:

"Sec. 2. All claims and liens created pursuant to G.S. 108-29 prior to the effective date of this act are hereby declared null and void, excepting those liens which have actually been collected by the County Attorney prior to the effective date of this act."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of March, 1975.

H. B. 53 **CHAPTER 49**

AN ACT TO AMEND ARTICLE 17 OF CHAPTER 105 OF THE GENERAL STATUTES TO ALLOW AN EXTENSION OF TIME FOR LISTING PROPERTY FOR TAXATION.

The General Assembly of North Carolina enacts:

Section 1. The first paragraph of G.S. 105-307 is rewritten to read as follows:

"§ 105-307. *Length of listing period; extension; preliminary work.*—The period during which property is to be listed for taxation each year shall begin on the first business day of the month of January and, unless extended as herein provided shall continue through the month of January. The board of county commissioners may, in any nonrevaluation year, extend the time during which property is to be listed for taxation for a period not to exceed 30 additional days; in years of octennial appraisal of real property, the board may extend the time for listing for a period not to exceed 60 additional days. Any action by the board of county commissioners extending the listing period shall be recorded in the minutes of the board, and notice thereof shall be published as required by G.S. 105-296(c). The entire period for listing, including any extension of time granted, shall be considered the regular listing period for the particular year within the meaning of this Subchapter."

Sec. 2. This act shall become effective January 1, 1976.

In the General Assembly read three times and ratified, this the 13th day of March, 1975.

H. B. 224 **CHAPTER 50**

AN ACT TO AMEND G.S. 163-278.33 TO MAKE CERTAIN CRIMINAL OFFENSES APPLY TO CERTAIN PUBLIC OFFICES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-278.33 is hereby amended to read: "Article 22 of Chapter 163 of the General Statutes, with the exceptions of G.S. 163-271, G.S. 163-273, G.S. 163-274, G.S. 163-275, G.S. 163-276, G.S. 163-277 and G.S. 163-278 shall not be applicable to any of the offices covered by this Article."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of March, 1975.

S. B. 74 **CHAPTER 51**

AN ACT TO AMEND CHAPTER 537 OF THE SESSION LAWS OF 1949 RELATING TO A SUPPLEMENTARY PENSION FUND FOR FIREMEN IN THE CITY OF GASTONIA.

The General Assembly of North Carolina enacts:

Section 1. Subsection 5 of Chapter 537 of the Session Laws of 1949, as amended by Section 2 of Chapter 111 of the Session Laws of 1957, is amended to read as follows:

"Any full-time paid member of said fire department who retires or is retired under the provisions of Section 4 of Chapter 537 of the Session Laws of 1949 shall receive monthly for the remainder of his life from the 'Supplementary Pension Fund' an amount equal to three dollars ($3.00) per month for each year of service, or major portion thereof, not to exceed one hundred dollars ($100.00) per month."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of March, 1975.

S. B. 152 **CHAPTER 52**

AN ACT TO PARTITION THE PROPST FIRE DISTRICT OF CATAWBA COUNTY INTO TWO DISTRICTS TO BE KNOWN AS THE PROPST CROSSROADS FIRE DISTRICT AND THE COOKSVILLE FIRE DISTRICT.

The General Assembly of North Carolina enacts:

Section 1. The Propst Fire District in Catawba County as described herein is hereby divided into two districts as set forth in Section 2 and Section 3 of this act.

BEGINNING at a point the northwest corner of the Propst Fire District, which is located at the intersection of Camp Creek and the Burke-Catawba County line; the Propst Fire District boundary line follows Camp Creek and its meanderings in an easterly direction for a distance of 1.5 miles, plus or minus, to a point in the middle of the bridge on S.R. 1002 (Old Shelby Road); at this point the line leaves Camp Creek in a northerly direction following the centerline of S.R. 1002 to a point in the centerline which is a projection of the rear property line of Melvin L. Hudson (on the east); at this point the line turns to the east

and follows the back or rear property lines of those property owners with frontage on the north side of Greedy Highway, S.R. 1120, in an easterly direction for a distance of 2.8 miles, plus or minus, to a point in Jacob's Fork River; the property owners in a west to east direction are as follows: Melvin L. Hudson, Mrs. Ruby Lynn Sparks, Alfred A. Herbraner, Clyde and Betty Kiser, Jess Whisnant, Ernest F. Cline, Ellis Whitener, Craig Whitener, Fred Berryhill, Pink Huffman, Calvin Huffman, Johnny Petty, Howard Abernethy, Gleason and Bert Whisnant, W. L. Whisnant estate; at this point the line continues in an easterly direction following Jacob's Fork River and its meanderings for a distance of 8.2 miles, plus or minus, to a point where Jacob's Fork River intersects with Henry Fork and where the South Fork River is formed; at this point the line turns in a south easterly direction and follows South Fork Catawba River and its meanderings for a distance of 9.5 miles, plus or minus, to a point where South Fork Catawba River intersects with the Catawba-Lincoln County line; at this point the line turns west and follows the Catawba-Lincoln County line for a distance of 13.3 miles, plus or minus, to a point where the Catawba-Lincoln County line intersects with the Burke County line; at this point the line turns in a northeasterly direction and follows the Burke-Catawba County line for a distance (sic) of 6.5 miles, plus or minus, to the point of beginning.

Sec. 2. Propst Crossroads Fire District shall have the following boundaries:

Beginning at a point (1), the northwest corner of the Propst Fire District, which is located in the middle of the bridge on S.R. 1002 (Old Shelby Road) over Camp Creek; the Propst Fire District Boundary line follows the centerline of S.R. 1002 in a northerly direction to a point (2) in the centerline which is a projection of the rear property line of Melvin L. Hudson (on the east); at this point the line turns to the east and follows the back or rear property lines of those property owners with frontage on the north side of Greedy Highway S.R. 1120, in an easterly direction for a distance of 2.8 miles, plus or minus, to a point (3) in Jacob's Fork River; at this point the line continues in an easterly direction following Jacob's Fork River and its meanderings for a distance of 8.2 miles, plus or minus, to a point (4) where Jacob's Fork River intersects with Henry Fork River and where the South Fork Catawba River is formed; at this point the line turns in a southeasterly direction and follows South Fork Catawba River and its meanderings for a distance of 9.5 miles, plus or minus, to a point (5) where South Fork Catawba River intersects with the Catawba-Lincoln County line; at this point the line turns west and follows the Catawba-Lincoln County line for a distance of 6.5 miles, plus or minus, to a point (6) where the Catawba-Lincoln County line intersects with S.R. 2044; at this point the line turns in a northerly direction and follows S.R. 2044 for a distance of 1.5 miles, plus or minus, to a point (7) where S.R. 2044 intersects with N.C. 10; at this point the line continues in a northerly direction following an unnamed creek and Jacob's Fork River to a point (8) in S.R. 1116, .9 mile, plus or minus, from S.R. 1002; at this point the line crosses S.R. 1116 and continues in a northerly direction to a point where it intersects with Camp Creek, .1 mile, plus or minus, from S.R. 1117; at this point the line turns west and follows Camp Creek, crossing S.R. 1117, to the point (1) of beginning in S.R. 1002.

Sec. 3. Cooksville Fire District shall have the following boundaries:

Beginning at a point (1) at the intersection of Camp Creek and the Catawba-Burke County line; thence in an easterly direction following Camp Creek to a point (2) 500 feet east of S.R. 1117; thence in a southerly direction to a point (3) in Providence Church Road (S.R. 1116) 0.9 miles from S.R. 1002; thence continuing in a southerly direction following Jacob's Fork River and an unnamed branch to a point (4) in N.C. 10 at its intersection with S.R. 2044; thence continuing in a southerly direction following the center of S.R. 2044 to a point (5) in the center of S.R. 2044 at its intersection with the Catawba-Lincoln County line; thence in a westerly direction following the Catawba-Lincoln County line to a point (6) Catawba-Lincoln-Burke County corner; thence in a northeasterly direction following the Catawba-Burke County line to the point (1) of Beginning.

Sec. 4. These two districts shall have the same powers and rate of taxation as the former, unpartitioned Propst Fire District, and each shall be subject to the provisions of Article 3A, Chapter 69, General Statutes of North Carolina.

Sec. 5. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 14th day of March, 1975.

H. B. 88 CHAPTER 53

AN ACT TO SIMPLIFY THE TAX RATES ON ALCOHOLIC BEVERAGES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-113.86 is amended by rewriting subsection (a) thereof in its entirety, to read as follows:

"(a)(1) In addition to the license taxes herein levied, a tax is hereby levied upon the sale of malt beverages of seven dollars and fifty cents ($7.50) per barrel of 31 gallons, or the equivalent of such tax on barrels of not less than seven and three-fourths (7-3/4) gallons, and on barrels, bottles, or other containers of less than seven and three-fourths (7-3/4) gallons a tax of twenty-six and six hundred eighty-eight one thousandths cents (26.688¢) per gallon.

(2) In addition to all other taxes levied in this Chapter, there is hereby levied an additional tax or surtax upon the sale of malt beverages of seven dollars and fifty cents ($7.50) per barrel of 31 gallons, or the equivalent of such tax on barrels of not less than seven and three-fourths (7-3/4) gallons, and on barrels, bottles, or other containers of less than seven and three-fourths (7-3/4) gallons a tax of twenty-six and six hundred eighty-eight one thousandths of a cent (26.688¢) per gallon. Notwithstanding any provisions of subsection (p) of this section, none of the revenues collected pursuant to the tax imposed by this subsection shall be allocated or distributed to any county or municipality, but all of said revenue derived from the increase in tax rates imposed by this subsection shall be paid into the General Fund of the State."

Sec. 2. G.S. 105-113.93 is amended by rewriting the same to read as follows:

"§ 105-113.93. *Tax on spirituous liquors.*—In lieu of the taxes levied in the 'North Carolina Sales and Use Tax Act' on the sale of spirituous liquors, there is hereby levied a tax of twenty-two and one-half percent (22-1/2%) on the retail

price of spirituous liquors of every kind that are sold in this State, including liquors sold in county or municipal ABC stores.

The taxes levied in this section shall be payable monthly, at the same time and in the same manner as the taxes levied in the 'North Carolina Sales and Use Tax Act', and the liability for such tax shall be subject to all the rules, regulations and penalties provided in said act, and in other sections of Subchapter I, Chapter 105 of the General Statutes, for the payment or collection of taxes."

Sec. 3. G.S. 105-113.94 is repealed in its entirety.

Sec. 4. This act shall become effective on August 1, 1975.

In the General Assembly read three times and ratified, this the 14th day of March, 1975.

H. B. 144 CHAPTER 54

AN ACT TO MAKE CONFORMING AMENDMENTS TO G.S. 29-19 AND G.S. 49-16 RELATING TO INHERITANCE BY ILLEGITIMATES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 29-19(b), as the same appears in the 1974 Cumulative Supplement to Volume 2A of the General Statutes, is hereby amended by deleting the last sentence.

Sec. 2. G.S. 49-16(1), as the same appears in the 1974 Cumulative Supplement to Volume 2A of the General Statutes, is hereby amended to read as follows:

"(1) The mother, the father, the child, or the personal representative of the mother or the child."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of March, 1975.

H. B. 226 CHAPTER 55

AN ACT TO AMEND G.S. 54-33.3(2) TO PROVIDE THAT STATE SAVINGS AND LOAN ASSOCIATIONS HAVE THE SAME POWERS WHICH HAVE BEEN GRANTED TO FEDERAL SAVINGS AND LOAN ASSOCIATIONS TO ACT AS TRUSTEE OF INDIVIDUAL RETIREMENT ACCOUNTS AS PROVIDED BY SECTION 408(a) OF THE INTERNAL REVENUE CODE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 54-33.3(2) is hereby amended by adding after the phrase "section 401(d)" the following phrase: "or section 408(a)".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of March, 1975.

H. B. 286

CHAPTER 56

AN ACT TO REGULATE THE CAGING OF BLACK BEARS.

The General Assembly of North Carolina enacts:

Section 1. Except as otherwise provided in applicable statutes, it shall be unlawful for any person to buy or sell black bears or for any person, firm or corporation to possess or keep any black bear (Ursus americanus) in any enclosure, pen, cage, or other place or means of captivity except as hereinafter provided.

Sec. 2. The provisions of this act shall not apply to bona fide zoos which are operated by federal, state, or local governmental agencies, or to educational institutions in which black bears are kept or exhibited as part of a bona fide course of training or research in the natural sciences, or to black bears held without caging under conditions simulating a natural habitat, the development of which is in accord with plans and specifications developed by the holder and approved by the Wildlife Resources Commission.

Sec. 3. Any person, firm or corporation in possession of a black bear on the effective date of this act under an existing permit issued by the Wildlife Resources Commission, where the conditions under which such black bear is held are in violation of this act, may immediately surrender such black bear and such permit to the Wildlife Resources Commission which shall compensate such person, firm or corporation in the amount actually paid for such bear not to exceed the sum of one hundred dollars ($100.00) for any one bear. In lieu of surrendering such black bear and such permit, any such person, firm or corporation may give immediately written notice to the Wildlife Resources Commission that plans and specifications for facilities to hold such bear without caging under conditions simulating a natural habitat will be submitted to the Commission for approval within 30 days thereafter. In the event such plans and specifications are not submitted within the time thus limited, or they are disapproved by the Commission, or the facilities are not completed in accordance therewith within 60 days after approval by the Commission, continued possession of a black bear by such person, firm or corporation after any of such events shall constitute a violation of the provisions of this act, and any such black bear shall be forfeited to the Wildlife Resources Commission without compensation.

Sec. 4. Violation of the provisions of this act shall constitute a misdemeanor punishable by a fine of not less than five hundred dollars ($500.00) or by imprisonment for not less than 90 days.

Sec. 5. Law enforcement officers of the Wildlife Resources Commission and all other peace officers are authorized and empowered to enforce the provisions of this act.

Sec. 6. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 7. This act shall become effective on and after July 1, 1975.

In the General Assembly read three times and ratified, this the 14th day of March, 1975.

H. B. 145 **CHAPTER 57**

AN ACT TO AMEND G.S. 45-21.4 TO ESTABLISH A UNIFORM LOCATION FOR THE HOLDING OF FORECLOSURE SALES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 45-21.4(d) is hereby rewritten to read as follows:

"When a mortgage or deed of trust with power of sale of real property confers upon the mortgagee or trustee the right to designate the place of sale, the sale shall be held at the place designated by the notice of sale, which place shall be either on the premises to be sold or as follows:

(1) Property situated wholly within a single county shall be sold at the courthouse door of the county in which the land is situated.

(2) A single tract of property situated in two or more counties may be sold at the courthouse door of any one of the counties in which some part of the real property is situated."

Sec. 2. This act shall become effective on and after October 1, 1975 and shall apply to foreclosure sales where the advertising is commenced after October 1, 1975.

In the General Assembly read three times and ratified, this the 17th day of March, 1975.

H. B. 244 **CHAPTER 58**

AN ACT TO AMEND CHAPTER 713, SESSION LAWS OF 1965, AS AMENDED, BEING THE CHARTER OF THE CITY OF CHARLOTTE, RELATING TO PROPER NOTICE OF DAMAGES IN MAKING A CLAIM AGAINST THE CITY.

The General Assembly of North Carolina enacts:

Section 1. Section 9.01, Subchapter A of Chapter IX of Chapter 713, Session Laws of 1965, as amended, is hereby further amended by adding immediately after the words "City Council" the words "or Mayor, City Manager and/or City Attorney".

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of March, 1975.

H. B. 313 **CHAPTER 59**

AN ACT TO ABOLISH THE OFFICE OF CORONER IN STANLY COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The office of coroner in Stanly County is hereby abolished upon the expiration of the term of the incumbent coroner. The incumbent coroner shall, upon the expiration of his term of office, have the power and authority to terminate all matters and proceedings which are pending by reason of his official acts, duties and responsibilities which occurred prior to the expiration of his term of office.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of March, 1975.

H. B. 85 CHAPTER 60

AN ACT TO AMEND G.S. 66-84 SO AS TO INCLUDE ROWAN COUNTY UNDER ARTICLE 17, CHAPTER 66 "CLOSING-OUT SALES".

The General Assembly of North Carolina enacts:

Section 1. G.S. 66-84 is hereby amended by inserting the word "Rowan" between the words "Rockingham" and "Sampson".

Sec. 2. This bill shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of March, 1975.

H. B. 177 CHAPTER 61

AN ACT TO ESTABLISH MAXIMUM LIMITATIONS ON THE NUMBER AND THE RATIO OF SUPERVISORY PERSONNEL TO UNIFORMED HIGHWAY PATROLMEN IN THE NORTH CAROLINA STATE HIGHWAY PATROL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-185(a) is hereby amended by inserting at the end thereof a new sentence to read as follows:

"Notwithstanding any other provision of this Article, the number of supervisory personnel of the State Highway Patrol shall not exceed a number equal to eighteen percent (18%) of the personnel actually serving as uniformed highway patrolmen."

Sec. 2. Nothing in this act is intended to require the demotion, reassignment or change in status of any member of the State Highway Patrol presently assigned in a supervisory capacity. If a reduction in the number of highway patrol personnel assigned in supervisory capacity is required in order for the State Highway Patrol to meet the mandatory maximum percentage of supervisory personnel as set out in Section 1 of this act, that reduction shall be achieved through normal attrition resulting from supervisory personnel resigning, retiring or voluntarily transferring from supervisory positions.

Sec. 3. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 19th day of March, 1975.

H. B. 199 CHAPTER 62

AN ACT TO EXTINGUISH LIENS ON PROPERTY FOR DEFERRED TAXES ACCRUING MORE THAN FIVE YEARS PRIOR TO DISQUALIFICATION.

The General Assembly of North Carolina enacts:

Section 1. Article 12 of Subchapter 11, Chapter 105 of the General Statutes is hereby amended by adding a new sentence at the end of G.S. 105-277.4(c) to read as follows:

"Upon the payment of any taxes deferred in accordance with this section for the five years immediately preceding a disqualification, all liens arising under this subsection shall be extinguished."

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 19th day of March, 1975.

H. B. 229 CHAPTER 63

AN ACT TO ABOLISH THE OFFICE OF CORONER IN UNION COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The office of coroner in Union County is hereby abolished upon the expiration of the term of the incumbent coroner, or at the time the office becomes vacant for any reason, whichever occurs first.

Sec. 2. Chapter 305, Session Laws of 1961 is hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of March, 1975.

S. B. 52 CHAPTER 64

AN ACT TO DECLARE OFFICIAL GRANTOR DEED OF TRUST INDEX BOOKS FOR BUNCOMBE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The alphabetical Deed of Trust index books of Deeds of Trust recorded in Buncombe County during the period from 1878 through December 31, 1970, consisting of 13 volumes of Grantor indexes recently prepared for Buncombe County by Hall-McChesney Company under the supervision of William E. Digges, Register of Deeds, Buncombe County, are hereby constituted and declared to be the official Grantor Deed of Trust index books for Buncombe County for the stated period.

Sec. 2. That all laws and clauses of laws in conflict with this act be, and they are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of March, 1975.

S. B. 126 CHAPTER 65

AN ACT TO AMEND CHAPTER 115 OF THE GENERAL STATUTES TO REQUIRE INSTRUCTION IN THE FREE ENTERPRISE SYSTEM IN THE PUBLIC HIGH SCHOOLS OF THE STATE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115-37 is amended by rewriting the same as follows:

"§ 115-37. *Subjects taught in public schools.*—County and city boards of education shall provide for the efficient teaching in each grade of all subjects included in the outline course of study prepared by the State Superintendent of Public Instruction, which course of study at the appropriate grade levels shall include instruction in Americanism, government of the State of North Carolina, government of the United States, fire prevention, harmful or illegal drugs,

including alcohol, and the free enterprise system at the high school level, its history, theory, foundation, and the manner in which it is actually practiced. Nothing in this Chapter shall prohibit city or county boards of education from operating a nongraded system in which pupils are taught at their individual learning levels."

Sec. 2. The second sentence of the second paragraph in G.S. 115-198 is amended by deleting at the end thereof the period and adding the following punctuation and words ", and the free enterprise system at the high school level."

Sec. 3. This act shall become effective beginning with the 1975-76 school year.

In the General Assembly read three times and ratified, this the 20th day of March, 1975.

S. B. 153 CHAPTER 66

AN ACT TO AMEND G.S. 45-10 REGARDING SUBSTITUTION OF TRUSTEES IN MORTGAGES AND DEEDS OF TRUST.

The General Assembly of North Carolina enacts:

Section 1. The language in G.S. 45-10, as found in the 1974 Cumulative Supplement to Volume 2A of the General Statutes, is designated as subsection (a) and a new subsection is added to G.S. 45-10 to read as follows:

"(b) Where a term or a condition of a mortgage, deed of trust or other instrument conveying real property, or creating a lien thereon, states that the trustee may be substituted for a reason other than one specified in G.S. 45-10(a)(1) and (2) then that substitution may be accomplished, in accordance with that term or condition, by the execution of a paper-writing."

Sec. 2. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 20th day of March, 1975.

H. B. 107 CHAPTER 67

AN ACT TO CLARIFY THE PROVISIONS FOR NOTICE IN CONDEMNATION PROCEEDINGS UNDER G.S. CHAPTER 160A, ARTICLE 11.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-245 is amended by adding a new paragraph, to read as follows:

"All notices and resolutions required to be served by this Article may be presented to the Sheriff of the county in which the condemning city is located; if the condemning city is located in more than one county, the City Council shall select the Sheriff of the county in which the majority of the land to be condemned is located for service of notices. The Sheriff shall serve the notices and resolutions as and when requested by the City Council, provided that the party to be served can be found within the county, and shall receive such fees as by general law provided for the service of civil process. The selection shall be communicated to the Sheriff by letter of the City Council, signed either by the City Council's presiding officer or the City Clerk or the City Attorney. All notices and resolutions required to be served by this Article shall be issued by

the City Council in the form of summons provided for by the Rules of Civil Procedure in cases of condemnation of land."

Sec. 2. This act shall become effective on October 1, 1975.

In the General Assembly read three times and ratified, this the 20th day of March, 1975.

S. B. 83 CHAPTER 68

AN ACT TO AMEND G.S. 86-5 RELATING TO APPRENTICESHIP OF BARBERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 86-5 is amended as follows:

a. on line 3, by deleting the word "eighteen" and inserting in lieu thereof the word "twelve"; and

b. on line 1 of subdivision (4), by deleting the word "eighteen" and inserting in lieu thereof the word "twelve".

Sec. 2. G.S. 86-5(2) is amended to read 18 years of age in lieu of 19 years of age.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of March, 1975.

S. B. 85 CHAPTER 69

AN ACT TO DELAY THE EFFECTIVE DATE OF CHAPTER 1331 OF THE 1973 SESSION LAWS ENTITLED "AN ACT TO ESTABLISH PROCEDURES FOR THE CONDUCT OF PROCEEDINGS BEFORE ADMINISTRATIVE AGENCIES AND TO ESTABLISH A CODE OF ADMINISTRATIVE REGULATIONS".

The General Assembly of North Carolina enacts:

Section 1. Chapter 1331, 1973 Session (2nd Session, 1974) Laws is hereby amended in Section 1, Article 5, G.S. 150-52(a) in the first sentence by deleting the date "July 1, 1975" and inserting in lieu thereof the date "February 1, 1976".

Sec. 2. Chapter 1331, 1973 Session (2nd Session, 1974) Laws is hereby amended in Section 1, Article 5, G.S. 150-52(c) by deleting the date "June 30, 1975" and inserting in lieu thereof the date "January 31, 1976".

Sec. 3. Chapter 1331, 1973 Session (2nd Session, 1974) Laws is hereby amended in Section 1, Article 5, G.S. 150-54(d) by deleting the date "July 1, 1975" and inserting in lieu thereof the date "February 1, 1976".

Sec. 4. Chapter 1331, 1973 Session (2nd Session, 1974) Laws is hereby amended in Section 4 by deleting the date "July 1, 1975" and inserting in lieu thereof the date "February 1, 1976".

Sec. 5. G.S. 150A-59(a) as the same appears in the 1974 Cumulative Supplement to Volume 3C of the General Statutes is hereby amended on line 2 by deleting the date "July 1, 1975" and inserting in lieu thereof the date "February 1, 1976".

Sec. 6. G.S. 150A-59(c), as the same appears in the 1974 Cumulative Supplement to Volume 3C of the General Statutes, is hereby amended by

deleting the date "June 30, 1975" and inserting in lieu thereof the date "January 31, 1976".

Sec. 7. G.S. 150A-63(d) as the same appears in the 1974 Cumulative Supplement to Volume 3C of the General Statutes is hereby amended on line 1 by deleting the date "July 1, 1975" and inserting in lieu thereof the date "February 1, 1976".

Sec. 8. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of March, 1975.

S. B. 174 CHAPTER 70

AN ACT TO AMEND CHAPTER 191, PRIVATE LAWS OF 1891, TO CHANGE THE NUMBER OF TOWN COMMISSIONERS FOR THE TOWN OF AUTRYVILLE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 191, Private Laws of 1891, is hereby amended by rewriting Section 3 thereof to read as follows:

"Sec. 3. That the officers of said Town shall consist of a mayor and five commissioners."

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of March, 1975.

S. B. 201 CHAPTER 71

AN ACT TO ANNEX A NONCONTIGUOUS AREA TO THE TOWN OF CARRBORO.

The General Assembly of North Carolina enacts:

Section 1. The following described noncontiguous area is hereby annexed to the Town of Carrboro:

"Beginning at a stake in the Northern Line of State Road 1919, said road also being known as the Smith-Level Road, said point being the Southwestern corner of a tract of land described in a deed from L. J. Phipps, Trustee, to Leila Atwater Graham, which deed is dated April 25, 1950, and recorded in May, 1950, in Deed Book 134, at page 93, Office of the Register of Deeds of Orange County, North Carolina; and running thence from said beginning point as the Northern right-of-way of State Road 1919 South 43° 52' West 278.17 feet; thence North 51° 43' 20" West 354.70 feet; thence South 89° 20' 50" West 600 feet; thence North 87° 38' 10" West 629.93 feet; thence North 0° 11' 50" West 200 feet to a rock pile; thence North 74° 36' 50" East 501.83 feet; thence North 74° 38' 30" East 152.39 feet to a control corner; thence North 1° 2' 30" West 400.14 feet to a stake in the Southern right-of-way of State Road 1967; thence as the Southern right-of-way line of State Road 1967 South 89° 24' East 1080.13 feet to a stake; thence South 0° 7' 38" West 108.54 feet; thence South 0° 10' 20" West 692.05 feet to the beginning point; containing 25.14 acres, more or less, and being the property known as the Village Apartments; the description herein set forth was taken from a map entitled 'Property of Harriett M. Gordon, Chapel

Hill Township, Orange County, North Carolina' by City Planning and Architectural Associates, Chapel Hill, North Carolina, dated September 21, 1972, which map is recorded in Book 21 at page 34 in the office of the Register of Deeds of Orange County, North Carolina."

Sec. 2. The area described in Section 1 of this act shall be considered as "Satellite corporate limits", and shall be subject to the provisions of G.S. 160A-58.3 through G.S. 160A-58.6.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of March, 1975.

H. B. 30 CHAPTER 72

AN ACT TO REWRITE G.S. 115-143 AS IT PERTAINS TO HEALTH CERTIFICATES REQUIRED FOR TEACHERS AND OTHER PUBLIC SCHOOL EMPLOYEES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115-143 is rewritten to read as follows:

"§ 115-143. *Health certificate required for teachers and other school employees.*—All public school employees upon initial employment, and those who have been separated from public school employment more than one school year, including superintendents, supervisors, district principals, building principals, teachers, and any other employees in the public schools of the State, shall file in the office of the county or city superintendent, before assuming his or her duties, a certificate from a physician licensed to practice medicine in the State of North Carolina, certifying that said person does not have tuberculosis in the communicable form, or other communicable disease, or any disease, physical or mental, which would impair the ability of the said person to perform effectively his or her duties. Thereafter, annually, each public school employee must, before assuming his or her duties, file in the office of the county or city superintendent a certificate from a physician licensed to practice medicine in this State, that said person does not have tuberculosis in the communicable form. Provided that a local school board or a superintendent may require any person herein named to take a physical examination when deemed necessary.

Any public school employee who has been absent for more than 40 successive school days because of a communicable disease must, before returning to work, file with the superintendent a physician's certificate certifying that the individual is free from any communicable disease.

The examining physician shall make the aforesaid certificates on an examination form supplied by the State Superintendent of Public Instruction. The certificate shall be issued only after a physical examination has been made at the time of the certification, and such examination shall be in accordance with rules and regulations adopted by the State Superintendent of Public Instruction, with approval of the Secretary of Human Resources, and such rules and regulations may include the requirement of an X-ray chest examination for all new employees of the public school system.

It shall be the duty of the county or city superintendent of the school in which the person is employed to enforce the provisions of this section.

Any person violating any of the provisions of this section shall be guilty of a misdemeanor and subject to a fine or imprisonment in the discretion of the court."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of March, 1975.

H. B. 58 CHAPTER 73

AN ACT TO PROHIBIT THE TAKING OF GAME FROM A SECTION OF RURAL PAVED ROAD 1804 IN LENOIR COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It shall be unlawful for any person to hunt, take or kill any species of birds, animals or beasts, or attempt to hunt, take or kill any species of birds, animals or beasts by the use of firearms from or to discharge a firearm on or across the roadway or right-of-way of the section of rural paved road 1804 in Lenoir County beginning at its intersection with U. S. Highway No. 70 and running northeasterly to its intersection with N. C. Highway 55.

Sec. 2. Any person, association of persons, or any firm or corporation violating the provisions of this act shall be guilty of a misdemeanor, and upon conviction shall be fined a sum not to exceed fifty dollars ($50.00) or imprisoned for a period not to exceed 30 days, or both, in the discretion of the court.

Sec. 3. All lawful peace officers of the county and State, including wildlife game protectors, are hereby authorized, and it shall be their duty to aid in the enforcement of this law.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of March, 1975.

H. B. 165 CHAPTER 74

AN ACT TO INCREASE THE INTEREST PAID ON TAX REFUNDS FROM FOUR PERCENT PER ANNUM TO SIX PERCENT PER ANNUM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-163.9 is hereby amended by deleting the words and figures "four percent (4%)" as they appear in the first sentence of said section and by inserting in lieu thereof the words and figures "six percent (6%)".

Sec. 2. G.S. 105-163.16 is hereby amended by deleting the words and figures "four percent (4%)" as they appear in the fourth sentence of subsection (c) and by inserting in lieu thereof the words and figures "six percent (6%)".

Sec. 3. G.S. 105-266 is hereby amended by deleting the words and figures "four percent (4%)" as they appear in the first sentence of said section and by inserting in lieu thereof the words and figures "six percent (6%)".

Sec. 4. This act shall become effective for refunds made on and after July 1, 1975.

In the General Assembly read three times and ratified, this the 25th day of March, 1975.

H. B. 268 **CHAPTER 75**

AN ACT TO REQUIRE THE COUNTY COMMISSIONERS OF SWAIN COUNTY TO PROVIDE FUNDS FOR SIX DEPUTY SHERIFFS, A CLERK AND THREE AUTOMOBILES FOR THE SHERIFF OF SWAIN COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The County Commissioners of Swain County shall provide the Sheriff of Swain County with sufficient funds for the employment of not less than six full-time deputies, and one full-time clerk, said clerk and deputies to be selected by the Sheriff.

Sec. 2. Any deputies employed by means of special funds furnished the County, separate and apart from regular County funds, shall be included within the number of six deputies required in Section 1 of this act.

Sec. 3. The County Commissioners shall provide the Sheriff of Swain County at least three automobiles for law enforcement purposes and shall pay to the Sheriff a minimum of six hundred dollars ($600.00) per month, or a minimum of two hundred dollars ($200.00) per car per month, for the maintenance and operation of the automobiles assigned to the Sheriff.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of March, 1975.

H. B. 201 **CHAPTER 76**

AN ACT TO AMEND G.S. 1-75.7 AND G.S. 1A-1, RULE 12, TO PROVIDE THAT OBTAINING AN EXTENSION OF TIME WITHIN WHICH TO ANSWER OR OTHERWISE PLEAD SHALL NOT BE CONSIDERED A GENERAL APPEARANCE AND SHALL NOT CONSTITUTE A WAIVER OF ANY DEFENSE SET FORTH IN RULE 12(b).

The General Assembly of North Carolina enacts:

Section 1. G.S. 1-75.7 is hereby amended to read as follows:

"§ 1-75.7. *Personal jurisdiction - grounds for without service of summons.*—A court of this State having jurisdiction of the subject matter may, without serving a summons upon him, exercise jurisdiction in an action over a person:

(1) Who makes a general appearance in an action; provided, that obtaining an extension of time within which to answer or otherwise plead shall not be considered a general appearance; or

(2) With respect to any counterclaim asserted against that person in an action which he has commenced in the State."

Sec. 2. G.S. 1A-1, Rule 12(b), is hereby amended to read as follows:

"(b) How presented. Every defense, in law or fact, to a claim for relief in any pleading, whether a claim, counterclaim, crossclaim, or third-party claim, shall be asserted in the responsive pleading thereto if one is required, except that the following defenses may at the option of the pleader be made by motion:

(1) Lack of jurisdiction over the subject matter, (2) Lack of jurisdiction over the person, (3) Improper venue or division, (4) Insufficiency of process, (5) Insufficiency of service of process, (6) Failure to state a claim upon which relief can be granted, (7) Failure to join a necessary party.

A motion making any of these defenses shall be made before pleading if a further

pleading is permitted. The consequences of failure to make such a motion shall be as provided in sections (g) and (h). No defense or objection is waived by being joined with one or more other defenses or objections in a responsive pleading or motion. Obtaining an extension of time within which to answer or otherwise plead shall not constitute a waiver of any defense herein set forth. If a pleading sets forth a claim for relief to which the adverse party is not required to serve a responsive pleading, he may assert at the trial any defense in law or fact to that claim for relief. If, on a motion asserting the defense numbered (6), to dismiss for failure of the pleading to state a claim upon which relief can be granted, matters outside the pleading are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided in Rule 56, and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion by Rule 56."

Sec. 3. This act shall become effective October 1, 1975 and shall not affect any pending litigation.

In the General Assembly read three times and ratified, this the 25th day of March, 1975.

H. B. 237 **CHAPTER 77**

AN ACT TO AUTHORIZE THE WILDLIFE RESOURCES COMMISSION TO ISSUE CONSERVATION EMBLEMS IN RECOGNITION OF VOLUNTARY CONTRIBUTIONS FOR NONGAME AND ENDANGERED WILDLIFE.

Whereas, the Wildlife Resources Commission is funded primarily by fees received from the sale of licenses to hunt, trap and fish to persons whose particular concern is conservation of the game and furbearing species of wildlife; and

Whereas, there are many persons who do not hunt, trap or fish, but who wish to participate in programs administered by the Commission for the protection and preservation of nongame and endangered species of wildlife and who should receive appropriate recognition for such participation; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Article 24 of Chapter 143 of the General Statutes of North Carolina is hereby amended by inserting a new Section 143-247.2 to read as follows:

"§ 143-247.2. *Contributions for nongame wildlife.*—The Wildlife Resources Commission is hereby authorized to issue and sell appropriate emblems by which to identify recipients thereof as contributors to a special wildlife conservation fund which shall be held and accounted for as a separate part of the Wildlife Resources Fund and which shall be made available to the Wildlife Resources Commission for conservation, protection, enhancement, preservation and perpetuation of nongame wildlife species and those species which may be endangered or threatened with extinction. The special wildlife conservation fund will be audited by the State Auditor. Emblems of different size, shape, type or design may be used to recognize contributions in different amounts, but no such emblem shall be issued for a contribution amounting in value to less than five dollars ($5.00)."

Sec. 2. This act shall become effective on the date of ratification.

In the General Assembly read three times and ratified, this the 25th day of March, 1975.

S. B. 113 CHAPTER 78

AN ACT TO AMEND THE NORTH CAROLINA MILK COMMISSION STATUTES RELATING TO COMMISSION MEMBERSHIP AND APPOINTMENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 106-266.7(a), as it appears in the 1974 Cumulative Supplement to Volume 3A of the General Statutes is hereby rewritten to read as follows:

"§ 106-266.7. *Milk Commission continued; membership; chairman; compensation; quorum; cooperation of other agencies; official acts; meetings; principal office.*—(a) There is hereby continued a Milk Commission of the Department of Commerce, consisting of ten members, three of whom shall be appointed by the Governor, two of whom shall be appointed by the Lieutenant Governor, two of whom shall be appointed by the Speaker of the House, and three of whom shall be appointed by the Commissioner of Agriculture.

The three members appointed by the Governor shall be two public members and a person who operates a store or other establishment for the sale of fluid milk at retail for consumption off the premises. The two members appointed by the Lieutenant Governor shall be a Grade A producer, who primarily markets with a cooperative plant and whose primary interest is operating a dairy farm, and a public member. The two members appointed by the Speaker of the House shall be a dairy processor-distributor or an employee of a dairy processor-distributor, who primarily operates a proprietary plant, and a public member. The three members appointed by the Commissioner of Agriculture shall be a dairy processor-distributor or an employee of a dairy processor-distributor who primarily operates a cooperative plant and a Grade A producer who primarily markets with a proprietary plant and whose primary interest is operating a dairy farm, and a public member.

The public members appointed pursuant to this subsection shall have no financial interest in, or be directly or indirectly involved in, the production, processing or distribution of milk or products derived therefrom.

Of the Commission members appointed following the ratification of this subsection, the Commissioner of Agriculture shall appoint three for a term ending June 30, 1976, the Governor shall appoint three for a term ending June 30, 1977, the Speaker of the House shall appoint one for a term ending June 30, 1978 and one for a term ending June 30, 1979, and the Lieutenant Governor shall appoint one for a term ending June 30, 1978 and one for a term ending June 30, 1979]. Thereafter appointments of Commission members shall be made by the same appointing authorities for terms of four years, ending on June 30 of the appropriate year: Provided, however, that all members appointed pursuant to this subsection shall serve until either they are reappointed and requalified or their successors are appointed and qualified. Any member of the Milk Commission may be removed for physical or mental incapacity, or for misfeasance or nonfeasance. In cases of removal from the Commission, the removal must be initiated by the person holding the office that originally made the appointment of such member, and subsequent appointments to fill such

vacancies will be made in the normally prescribed manner for the remainder of the unexpired term by the person holding the office that originally made the appointment. If the office that originally made the appointment is vacant, the successor to such office shall fill such vacancy. In case of death, resignation, disqualification, or other physical or mental incapacity which prevents a Commission member from performing his official duties prior to the expiration of his term of office, his successor shall be appointed as provided in this subsection to fill out the unexpired term."

Sec. 1.5. G.S. 106-266.7(b), as it appears in the 1974 Cumulative Supplement to Volume 3A of the General Statutes, is hereby amended by deleting the word "Public" from line 2 and line 4.

Sec. 2. G.S. 106-266.7(g), as it appears in the 1974 Cumulative Supplement to Volume 3A of the General Statutes, is hereby amended by deleting the first word "Four" and substituting therefor the word "Six".

Sec. 3. The reorganization of the Commission brought about by this amendment shall in no way affect the validity or continuity of any rule, regulation, order or action of the North Carolina Milk Commission which is in effect at the time this amendment becomes effective. All valid rules, regulations, orders or actions taken or adopted by the Commission at any time prior to the effective date of this amendment shall continue in full force and effect (without the necessity for readoption or reaffirmation of same) until such time as the same are rescinded or revised by the Commission.

Sec. 4. The terms of office of present members of the North Carolina Milk Commission shall expire on the date this act becomes effective.

Sec. 5. This act shall become effective 30 days after its ratification.

In the General Assembly read three times and ratified, this the 27th day of March, 1975.

H. B. 298 CHAPTER 79

AN ACT TO ALLOW THE COMMISSIONER OF MOTOR VEHICLES TO GRANT TEMPORARY OPERATORS' PERMITS TO CERTAIN MINORS.

Whereas, minors between the ages of 16 years and 18 years moving into North Carolina holding a valid motor vehicle operator's license from their prior state of residence but not having had the driver training courses required under G.S. 20-88.1 cannot obtain a learner's permit or operator's license under North Carolina law until the requirements for driver education are met, and

Whereas, the driver education courses required cannot be obtained by such minors in North Carolina in their new city or town of residence due to scheduling by the schools available to them and there is no commercial driving school located therein, and

Whereas, the motor vehicle laws of North Carolina have no provision under which such minor can be granted relief from the problem hereinabove set out; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-11 is hereby amended by adding a new subsection to be designated subsection (c) and to read as follows:

"(c) The Department may, upon satisfactory proof that a minor between the ages of 16 and 18 years has become a resident of North Carolina and holds a

valid motor vehicle operator's license from his prior state of residence but has not completed a course in driver education which meets the requirements of this State, grant to such minor a temporary operator's permit under such terms and conditions as shall be deemed necessary by the Department to allow the minor to operate a motor vehicle in this State in order to obtain the driver education courses necessary for operator's license in North Carolina. Every application for a temporary operator's permit shall be made upon the approved form furnished by the Department. A temporary operator's permit issued pursuant to this section shall be subject to all provisions of law relating to operator's license."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of March, 1975.

H. B. 305 **CHAPTER 80**

AN ACT TO AMEND THE CHARTER OF THE TOWN OF RAMSEUR IN RANDOLPH COUNTY, NORTH CAROLINA, TO CLARIFY ITS POWERS AND TO AUTHORIZE THE TOWN TO USE THE PROCEDURES OF ARTICLE 9 OF CHAPTER 136 OF THE GENERAL STATUTES RELATING TO CONDEMNATION BY THE BOARD OF TRANSPORTATION.

The General Assembly of North Carolina enacts:

Section 1. Section 4 of the Charter of the Town of Ramseur, as set forth in Chapter 308, Private Laws of North Carolina of 1895, is amended by rewriting Section 4 as follows:

"Sec. 4. *Corporate powers.*—The Town of Ramseur shall continue to be vested with all property and rights which now belong to the Town; shall have perpetual succession; may have a common seal and alter and renew the same at pleasure; may sue and be sued; may contract, may acquire and hold all such property, real and personal, as may be devised, bequeathed, sold or in any manner conveyed or dedicated to it, or otherwise acquired by it, and may from time to time hold or invest, sell or dispose of the same; and shall have and may exercise in conformity with its Charter all municipal powers, functions, rights, privileges, and immunities of every name and nature.

"Sec. 4.1. *Exercise of powers.*—All powers, functions, rights, privileges and immunities of the Town, its officers, agencies, or employees shall be carried into execution as provided by this Charter or as provided by ordinance or resolution of the Board of Commissioners of the Town or as provided by the general laws of North Carolina pertaining to municipal corporations.

"Sec. 4.2. *Enumerated powers not exclusive.*— The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive but in addition to the powers enumerated herein or implied hereby, or those appropriate to the exercise of such powers, the Town of Ramseur shall have and may exercise all powers which are granted to municipal corporations by the general laws of North Carolina and all powers which, under the Constitution of North Carolina, it would be competent for this Charter specifically to enumerate.

"Sec. 4.3. *Alternative condemnation procedures.*—In exercising the power of eminent domain for any public purpose, if negotiations for the purchase of land or rights in land are unsuccessful the Town may in its discretion use the

procedures of Article 2 of Chapter 40 of the General Statutes or Article 9 of Chapter 136 of the General Statutes, or the procedures of any other general law, charter or local act applicable to the Town. As contained in Article 9 of Chapter 136 of the General Statutes, all reference to 'Board of Transportation' shall be deemed to mean 'Town of Ramseur', all reference to the 'Chairman of the Board of Transportation' or 'Director of Highways' shall be deemed to mean Mayor of the Town of Ramseur, all references to 'Raleigh' shall be deemed to mean Ramseur, and all other reference, directly or by implication, to the condemning authority or persons or agencies connected therewith shall be deemed to mean the Town of Ramseur.

Provided, however, that the provisions of this section shall not apply with regard to properties owned by public service corporations as defined in G.S. 160A-243(c) unless the exercise of such power of eminent domain is either consented to by the owner of the property to be acquired by the Town, or otherwise first adjudicated after notice and a hearing that such acquisition will not prevent or unreasonably impair the continued devotion to the public use of such properties and the operation by such public service corporation."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of March, 1975.

H. B. 315 **CHAPTER 81**

AN ACT TO DELETE A CERTAIN AREA FROM THE CORPORATE LIMITS OF THE TOWN OF MAGGIE VALLEY IN HAYWOOD COUNTY.

Whereas, at a public hearing held in 1974, a commitment was made to exclude that parcel of land containing the home of Charlie D. MeHaffey from the corporate limits of the proposed Town of Maggie Valley, and;

Whereas, the map of the Town of Maggie Valley, when incorporated, included the home of Charlie D. MeHaffey through error; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby deleted from the corporate limits of the Town of Maggie Valley the following described area containing the home of Charlie D. MeHaffey:

"Being located in Ivey Hill Township, Haywood County, North Carolina, and more particularly described as follows: Beginning at an iron stake in the western line of Parcel 22, as said parcel is shown on map of proposed corporate boundary of Maggie Valley as surveyed by Edwards Engineering, date March, 1974, said beginning point being N. 12° 13' 09" W, 112 feet from a right-of-way monument in the Northern right-of-way line of U. S. Highway No. 19, and running thence N 12° 13' 09" W, 213.55 feet to a point in the center of Jonathan Creek; thence S. 79° 41' 00" W, 233.41 feet to a point in the eastern right-of-way of Secondary Road No. 1305; thence South 2° 34' 45" E, 155.05 feet to an iron stake; thence North 86° 25' 26" W, 259.02 feet to the beginning, as shown on map of said property dated 2-13-1975, approved by James T. Herron, R.L.S., and identified as Drawing Number 248-367-B."

Sec. 2. The Town of Maggie Valley shall cause the official map of the Town to be corrected to exclude the area described in Section 1 from the corporate limits of the Town.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of March, 1975.

H. B. 391 CHAPTER 82

AN ACT TO REPEAL G.S. 130-69(7) IN ORDER TO CONFORM THE PENALTY SECTION WITH AMENDMENTS TO ARTICLE 7 OF CHAPTER 130 BY 1973 SESSION LAW CHAPTER 873.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-69(7), as it appears in Volume 3B of the General Statutes, is hereby repealed.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of March, 1975.

H. B. 392 CHAPTER 83

AN ACT TO AMEND G.S. 130-9 RELATING TO HUMAN RESOURCES AND HEALTH SERVICES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-9(g) is amended by deleting from line 1 the following words "The Department of Human Resources" and adding in lieu thereof the words "The Commission for Health Services".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of March, 1975.

H. B. 393 CHAPTER 84

AN ACT TO AMEND G.S. 130-87 SO AS TO MAKE TECHNICAL AMENDMENTS IN CONFORMITY WITH EXECUTIVE ORGANIZATION ACT OF 1973.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-87, as it appears in Volume 3B of the General Statutes, is hereby amended by deleting the words "Department of Human Resources" in lines 4 and 11 and by substituting therefor the words "Commission for Health Services" and by deleting the word "Department" in line 5 and by substituting therefor the word "Commission".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of March, 1975.

S. B. 264 **CHAPTER 85**

AN ACT TO AMEND CHAPTER 713 OF THE SESSION LAWS OF 1965, AS AMENDED, BEING THE CHARTER OF THE CITY OF CHARLOTTE, RELATING TO THE AGE OF APPLICANTS FOR THE FIRE DEPARTMENT AND POLICE DEPARTMENT.

The General Assembly of North Carolina enacts:

Section 1. Section 4.61, Subchapter D of Chapter IV of Chapter 713 of the Session Laws of 1965, as amended, is hereby further amended by deleting the figures "21" and substituting in lieu thereof the figures "18" relating to the age of applicants for employment in the fire department in (2)(a) and deleting the figures "21" and substituting in lieu thereof the figures "20" relating to the age of applicants for employment in the police department in (2)(b).

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1975.

S. B. 271 **CHAPTER 86**

AN ACT TO AUTHORIZE THE BOARD OF COUNTY COMMISSIONERS OF BUNCOMBE COUNTY TO APPROPRIATE FOR THE USE OF ELIADA HOME FOR CHILDREN IN BUNCOMBE COUNTY A SUM NOT IN EXCESS OF TWENTY THOUSAND DOLLARS ($20,000) PER YEAR.

The General Assembly of North Carolina enacts:

Section 1. The Board of County Commissioners of Buncombe County is hereby authorized and empowered to appropriate and pay to the Eliada Home for Children in Buncombe County a sum which shall not be in excess of twenty thousand dollars ($20,000) per year during each fiscal year of the biennium 1975-1977.

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1975.

S. B. 31 **CHAPTER 87**

AN ACT AUTHORIZING LOCAL LAW ENFORCEMENT OFFICERS IN HENDERSON AND TRANSYLVANIA COUNTIES TO EXERCISE ARREST POWERS THROUGHOUT AREA SERVED BY JOINT DRUG ENFORCEMENT UNIT.

The General Assembly of North Carolina enacts:

Section 1. If a unit of local government in Henderson and Transylvania counties establishes with another unit of local government an undertaking, as defined in G.S. 160A-460(1) of the North Carolina General Statutes, for the enforcement of the North Carolina Controlled Substances Act, a law

enforcement officer employed by the unit may, when participating in the undertaking, exercise the powers of a peace officer, including arrest, search, and execution of process, anywhere that law enforcement officers of any of the participating units of local government could exercise those powers.

If a joint drug enforcement unit is established, the sheriff of each county in which the drug enforcement unit is operating shall have administrative control over the activities of the drug unit operating in his county, and every law enforcement officer participating in the drug enforcement unit shall be sworn as a deputy sheriff in the county in which he is exercising the powers of a law enforcement officer and shall be under the supervision, direction and control of the sheriff of said county.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1975.

H. B. 367 CHAPTER 88

AN ACT TO AMEND CHAPTER 48, SESSION LAWS OF 1963, AS AMENDED, RELATING TO ALCOHOLIC BEVERAGE CONTROL STORES IN THE TOWN OF ROSEBORO.

The General Assembly of North Carolina enacts:

Section 1. Section 6 of Chapter 48, Session Laws of 1963, as amended by Chapter 600, Session Laws of 1967 and Chapter 86, Session Laws of 1969, is hereby further amended by rewriting paragraph (a) of said Chapter 600, Session Laws of 1967 to read as follows:

"(a) The governing body of the Town of Roseboro in its discretion, may appropriate ten percent (10%) of said net proceeds, or two thousand dollars ($2,000), whichever is less, to public schools located within the corporate limits of the Town of Roseboro to be used for any educational purpose, program or activity which the governing body of the Town of Roseboro, in its sole discretion, may select; the principal of each recipient school(s) to be notified each year by the Town Clerk upon adoption of the Town's Budget Ordinance, the amount, if any, appropriated to said school."

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1975.

H. B. 380 CHAPTER 89

AN ACT TO AMEND G.S. 148-49.9(b) TO PERMIT THE PAROLE COMMISSION TO REINSTATE THE CONDITIONAL RELEASE OF A COMMITTED YOUTHFUL OFFENDER WITHOUT OBTAINING THE RECOMMENDATION OF THE SECRETARY OF CORRECTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 148-49.9(b) as it appears in the 1974 Cumulative Supplement of Volume 3C of the General Statutes of North Carolina, is hereby amended by adding at the end of the present subsection (line 11), the following: "After revocation of an order of conditional release, the Parole Commission may

thereafter reinstate the conditional release after such time as, in the Commission's discretion, the youthful offender is ready for such reinstatement. The recommendation of the Secretary of Correction for reinstatement of conditional release shall not be required."

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1975.

H. B. 399 CHAPTER 90

AN ACT TO AMEND G.S. 143B-140 TO SUBSTITUTE "THE DIVISION OF SOCIAL SERVICES" FOR "THE DIVISION OF SOCIAL AND REHABILITATIVE SERVICES."

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-140, as the same appears in Volume 3C of the General Statutes of North Carolina, is hereby amended by substituting on line 18 thereof "the Division of Social Services" for "the Division of Social and Rehabilitative Services".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1975.

H. B. 402 CHAPTER 91

AN ACT TO AMEND CHAPTER 48 OF THE GENERAL STATUTES RELATING TO ADOPTIONS TO PROVIDE FOR THE RECORDATION OF ADULT ADOPTION PROCEEDINGS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 48-36 is hereby amended by adding the following subsection immediately following subsection (e), to be designated subsection (f), and to read as follows:

"(f) Within 10 days after the order of adoption is entered, the clerk must file with the Department of Human Resources a copy of the petition giving the date of the filing of the original petition, the consent of the person sought to be adopted, and the order of adoption, and the Department of Human Resources must cause all papers pertaining to the proceeding to be permanently registered and filed."

Sec. 2. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 31st day of March, 1975.

H. B. 405 **CHAPTER 92**

AN ACT TO RENAME THE GENERAL ASSISTANCE PROGRAM ESTABLISHED IN PART 6, ARTICLE 2 OF CHAPTER 108 OF THE GENERAL STATUTES TO THE STATE-COUNTY SPECIAL ASSISTANCE FOR ADULTS PROGRAM.

The General Assembly of North Carolina enacts:

Section 1. The title to Part 6, Article 2 of Chapter 108, as the same appears in Volume 3A of the 1974 Cumulative Supplement to the General Statutes of North Carolina, is hereby changed to read:

"Part 6. State-County Special Assistance for Adults".

Sec. 2. G.S. 108-64(a), as the same appears in Volume 3A of the 1974 Cumulative Supplement to the General Statutes of North Carolina, is hereby amended by deleting the words "'State General Assistance Fund,'" on line 2 thereof and substituting therefor the words "'State-County Special Assistance for Adults Fund,'".

Sec. 3. G.S. 108-65, as the same appears in Volume 3A of the 1974 Cumulative Supplement to the General Statues of North Carolina, is hereby amended by deleting the words "general assistance" on line 1 thereof and substituting therefor the words "State-county special assistance for adults" and by deleting the words "State General Assistance Fund" on line 4 thereof and substituting therefor the words "State-County Special Assistance for Adults Fund".

Sec. 4. G.S. 108-23(3), as the same appears in Volume 3A of the 1974 Cumulative Supplement to the General Statutes of North Carolina, is hereby amended to read as follows:

"(3) State-County Special Assistance for Adults;".

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1975.

S. B. 219 **CHAPTER 93**

AN ACT TO AMEND CHAPTER 11 OF THE 1975 SESSION LAWS WHICH AMENDS G.S. 136-33 RELATING TO FIXING PENALTIES FOR WILLFUL INTERFERENCE WITH HIGHWAY SIGNS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 11 of the 1975 Session Laws, which amends G.S. 136-33 is hereby amended by adding a new subsection "(e)" to read as follows:

"(e) The enforcement of this section shall be the specific responsibility and duty of the Department of Transportation and Highway Safety by and through the State Highway Patrol in addition to all other law enforcement agencies and officers within this State."

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 31st day of March, 1975.

H. B. 99 **CHAPTER 94**

AN ACT TO REINSTATE EXEMPTIONS FROM MOTORCYCLE REQUIREMENTS FOR "MO-PED" OPERATION.

Whereas, Section 3 of Chapter 1143 of the 1973 Session Laws (2nd Session, 1974) (Senate Bill 995, 1973 Session, 2nd Session, 1974) exempting operation of bicycles with helper motors of less than one brake horsepower from requirement to wear helmets and to burn lights on bicycle when in operation by excluding such vehicles from the definition of motorcycles was, by oversight, deleted upon ratification of House Bill 328 (Chapter 1330, 1973 Session, 2nd Session 1974) four days after the ratification of Chapter 1143; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-4.01(27)d. as same appears in the 1974 Cumulative Supplement to Volume 1C of the General Statutes is hereby amended by striking the word "and" appearing immediately before the words "three-wheeled" appearing in line five and by striking the period at the end thereof and adding the following: "and bicycles with helper motors rated less than one brake horsepower which produce only ordinary pedaling speeds up to a maximum of 20 miles per hour."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of April, 1975.

S. B. 47 **CHAPTER 95**

AN ACT TO PROHIBIT THE SETTING OF STEEL TRAPS ON RENTED OR LEASED LAND IN NEW HANOVER COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It shall be unlawful in New Hanover County for any person, firm or corporation to set or possess any steel trap of any type or take any animal caught in any steel trap, on any lands, except as hereinafter provided.

Sec. 2. It shall be lawful for any person, firm or corporation to set or possess steel traps and take animals therefrom, provided not otherwise prohibited by law, on his own land.

Sec. 3. It is the intent and purpose of this act to prohibit any person, firm or corporation from setting or using steel traps of any type on lands in New Hanover County which have been leased or sublet from some other person, firm or corporation.

Sec. 4. Violation of this act shall be a misdemeanor punishable by a fine of not less than fifty dollars ($50.00) or more than two hundred dollars ($200.00), or by imprisonment for not more than 30 days or by both fine and imprisonment, in the discretion of the court.

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of April, 1975.

H. B. 101 **CHAPTER 96**

AN ACT TO ABOLISH THE OFFICE OF CORONER IN TYRRELL COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The office of coroner in Tyrrell County is hereby abolished, and Chapter 152 of the General Statutes shall not hereafter be applicable to Tyrrell County.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of April, 1975.

H. B. 209 **CHAPTER 97**

AN ACT TO AMEND CHAPTER 76 OF THE SESSION LAWS OF 1961 RELATING TO THE ELECTIVE OFFICIALS OF THE TOWN OF CLAREMONT IN CATAWBA COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of Chapter 76 of the Session Laws of 1961 is hereby rewritten to read as follows:

"Sec. 3. Of the five aldermen now holding office in the Town of Claremont, Catawba County, successors to the offices now held by Harold McRee Wilson, Eddy Gaither Harwell, and William David Watts shall be elected at the November, 1975, election, and every four years thereafter, for the Town of Claremont and shall serve for terms of four years or until their successors are elected and qualified. Successors to the offices now held by Timothy Allan Lowrance and Gary Wayne Carpenter shall be elected at the regular November, 1977, election, and every four years thereafter, for the Town of Claremont and shall serve for terms of four years or until their successors are elected and qualified. The terms of office of Timothy Allan Lowrance and Gary Wayne Carpenter are hereby extended to November, 1977, or until their successors are elected and qualified. Thereafter, as the terms of office expire, aldermen elected at regular town elections shall serve for terms of four years or until their successors are duly elected and qualified."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of April, 1975.

H. B. 340 **CHAPTER 98**

AN ACT TO AMEND CHAPTER 69 OF THE PUBLIC-LOCAL LAWS OF THE STATE OF NORTH CAROLINA, EXTRA SESSION 1921, RELATING TO OWNING OR OPERATING PUBLIC POOLROOMS OR BILLIARD ROOMS IN WATAUGA COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 69 of the Public-Local Laws of the State of North Carolina, Extra Session 1921, is amended by inserting a period "." after the word "time" and before the colon ":" on line 9 and striking the rest of line 9 and all of lines 10, 11 and 12, so that it shall not be unlawful to own or operate a

public poolroom or billiard room in which a charge is made for playing pool or billiards in Watauga County.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of April, 1975.

H. B. 423 CHAPTER 99

AN ACT TO AMEND RULE 33 OF THE RULES OF CIVIL PROCEDURE TO INCREASE THE TIME TO FILE OBJECTIONS TO INTERROGATORIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1A-1, Rule 33, as it appears in the 1974 Cumulative Supplement to Volume 1A of the General Statutes, is amended by deleting the figure and word "10 days" in the first paragraph, and inserting in lieu thereof the figure and word "30 days".

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 1st day of April, 1975.

H. B. 430 CHAPTER 100

AN ACT TO AMEND THE CHARTER OF THE CITY OF GREENSBORO, AS REVISED AND REORGANIZED BY CHAPTER 1137 OF THE SESSION LAWS OF 1959, AS AMENDED.

The General Assembly of North Carolina enacts:

Section 1. Section 3.21 of the Charter of the City of Greensboro, as set forth in Section 1, Chapter 1137 of the Session Laws of 1959, and as amended by Section 12 of Chapter 213, Session Laws of 1973, is hereby amended by deleting the first sentence and by substituting in lieu thereof two new sentences at the beginning of Section 3.21 to read as follows:

"The organizational meeting of the council shall be held no sooner than the first day of December and no later than the fifteenth day of December after the regular city election. In the event that the encumbent city council fails to take action by the second regular meeting in November after the regular city election to establish the date of the organizational meeting, then such organizational meeting shall be held at 2:00 p.m. on the second Monday in December after said city election."

Sec. 2. Section 4.01 of the Charter of the City of Greensboro, as set forth in Section 1, Chapter 1137 of the Session Laws of 1959, is amended by adding a new subsection at the end of subsection (b) to read as follows:

"(c) The council may provide for compensation and expenses to members of any boards and commissions created by the council in such amounts as, in the opinion of said council, is deemed to be just and reasonable."

Sec. 3. Section 4.121 of the Charter of the City of Greensboro, as set forth in Section 1, Chapter 1137 of the Session Laws of 1959, is amended by adding a new paragraph at the end thereof to read as follows:

"With respect to sales of bicycles and other seized articles held pursuant to Article 2, Chapter 15 of the General Statutes of North Carolina, public auction of such items may be held at such place as designated by the City Manager and

in the same manner as other surplus goods and equipment owned and held by the City are sold."

Sec. 4. Section 4.125 of the Charter of the City of Greensboro, as set forth in Section 1, Chapter 1137 of the Session Laws of 1959, as amended by Section 8, Chapter 74 of the Session Laws of 1967 and as further amended by Section 18, Chapter 213 of the Session Laws of 1973, is hereby further amended by adding a new sentence at the end of subsection (a) to read as follows:

"In addition, any property or portion thereof owned by the City subject to lease in accordance with the provisions herein, may be reasonably improved and renovated by the City either at its own expense or by mutual joint arrangement with other persons."

Sec. 5. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 6. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of April, 1975.

H. B. 438 CHAPTER 101

AN ACT TO AMEND THE CHARTER OF THE TOWN OF LAKE LURE TO PROVIDE FOR THE ELECTION OF THE MAYOR AND BOARD OF COMMISSIONERS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 179, Private Laws of 1927, is amended by rewriting Section 3 thereof to read:

"Sec. 3. The Town of Lake Lure shall be governed by a mayor and a Board of Commissioners consisting of four members who shall be elected by the voters of the Town as hereinafter provided.

Beginning with the Town election to be held in November 1975, and every two years thereafter, the mayor shall be elected for a term of two years. At the election to be held in November 1975, four commissioners shall be elected. The two candidates receiving the highest number of votes shall be elected for terms of four years, and the two candidates receiving the next highest number of votes shall be elected for terms of two years. Thereafter, as the terms of the commissioners expire, their successors shall be elected for terms of four years.

The Town election shall be nonpartisan and decided by simple plurality, and shall be held on Tuesday after the first Monday in November 1975, and every two years thereafter. The municipal elections shall be held and conducted pursuant to the applicable provisions of Articles 23 and 24 of Chapter 163 of the General Statutes."

Sec. 2. Section 9 of Chapter 179, Private Laws of 1927, is hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of April, 1975.

H. B. 108 **CHAPTER 102**

AN ACT TO PERMIT CITIES TO MAKE PRIOR ENTRY UPON LAND PROPOSED OR CONTEMPLATED FOR MUNICIPAL CONDEMNATION IN PROCEEDINGS UNDER G.S. CHAPTER 160A, ARTICLE 11.

The General Assembly of North Carolina enacts:

Section 1. G.S. Chapter 160A, Article 11, is amended by adding a new section, G.S. 160A-263, to read as follows:

"§ 160A-263. *Right of entry prior to condemnation.*—Any city, without having adopted a preliminary condemnation resolution, depositing any sum, or taking any other action provided for in this Article, is authorized to enter upon any lands, but not structures, to make surveys, borings, examinations, and appraisals as may be necessary or expedient in carrying out and performing its rights or duties under this Article, and such entry shall not be deemed a trespass, or taking within the meaning of this Article; provided, however, that said city shall make reimbursement for any damage resulting from such activities, and the owner, if necessary, shall be entitled to proceed to recover for such damage. Provided further, that said city shall give 30 days notice of the intended entry authorized by this section; such notice shall be deemed given when served on the owner of the land and on all persons who hold a recorded lien or lease against the land by the sheriff of the county in which the condemning city is located or by mailing the notice by certified mail, return receipt requested, postage prepaid, addressed to the owner of the land and to all persons who hold a recorded lien or lease against the land at his last known address or last known principal place of business."

Sec. 2. Nothing in this act shall affect pending litigation.

Sec. 3. This act shall become effective on October 1, 1975.

In the General Assembly read three times and ratified, this the 2nd day of April, 1975.

H. B. 332 **CHAPTER 103**

AN ACT TO EXEMPT CERTAIN PROPERTY OWNED BY THE HICKORY CITY ADMINISTRATIVE SCHOOL UNIT FROM G.S. 115-131.

Whereas, on January 26, 1924, Claremont College conveyed to the City of Hickory, a municipal corporation in Catawba County, North Carolina, the following described tract of land:

That certain block of land within the corporate limits of the City of Hickory, County and State aforesaid, and bounded by 13th Avenue on the South, by 8th Street on the East, by 14th Avenue on the North, and by 10th Street on the West.

Whereas, said deed was recorded in the public registry, Newton, North Carolina, in Book 164, at page 541, on the 8th day of February, 1924; and

Whereas, said deed contained, among other restrictions, that the said City of Hickory was "To have and to hold said lands and premises, with all privileges and appurtenances thereunto in anywise appertaining or belonging, unto the said City of Hickory and its successors forever, unto its and their use as a part of its and their free public school system, subject to the estate herein conveyed being

defeated at any time upon the failure of the City of Hickory; or of its successors, to use said property as a part of its, or their, free public school system, or upon attempted alienation; and upon such failure or upon the attempted alienation of said lands and premises or any part thereof by the City of Hickory, or by its successors, the estate herein conveyed shall cease and the property, lands and premises, shall pass in fee simple to the trustees of Corinth Reformed Church of Hickory, North Carolina"; and

Whereas, the said restrictions as set out in the deed create a defeasible title to the described tract, which is now held by operation of law by the Board of Education of the Hickory Administrative School Unit; and

Whereas, since this property has been in the possession of the Board of Education of the Hickory Administrative School Unit, extensive improvements have been made to the property, and it has been continuously used for public school purposes, and continues to be so used; and

Whereas, in 1955, the General Assembly of the State of North Carolina enacted G.S. 115-131, which states in part that "County and city boards of education shall make no contract for the erection or repair of any school building unless the site upon which it is located is owned in fee simple by the said board..."; and

Whereas, the Board of Education of the Hickory Administrative School Unit must make contracts for erections of new improvements or repairs to the existing school buildings which are located on the described tract, or the Board will be unable to use the described premises for school purposes and will lose its substantial investment therein on the reversion of the property to the Corinth Reformed Church of Hickory, North Carolina; and

Whereas, it is deemed in the best public interest that the Board of Education of the Hickory Administrative School Unit should be empowered to enter into the necessary contracts for the erection of new improvements and repairs to the existing improvements on the school site, in order to continue to use it for public school purposes; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The following tract of land currently owned and operated by the Board of Education of the Hickory Administrative School Unit be and it hereby is exempted from the operation and provisions of G.S. 115-131, said tract described as follows:

That certain block of land within the corporate limits of the City of Hickory, County and State aforesaid, and bounded by 13th Avenue (now 3rd Avenue, N. E.) on the South, by 8th Street (now 3rd Street, N. E.) on the East, by 14th Avenue (now 4th Avenue, N. E.) on the North, and by 10th Street (now 2nd Street, N. E.) on the West.

Sec. 2. The Board of Education of the Hickory Administrative School Unit is empowered and authorized by vote of a majority of the Board to enter into contracts for the erection of new improvements and for the repair of any existing buildings or improvements on the school site as otherwise provided by law and to further make any contracts or agreements necessary or convenient to carry out such purposes.

Sec. 3. This act shall become effective upon ratification, and shall apply only to the described tract of land in the Hickory Administrative School Unit.

In the General Assembly read three times and ratified, this the 2nd day of April, 1975.

S. B. 14 CHAPTER 104

AN ACT TO EXEMPT FROM SALES TAX DEPOSITS ON RETURNABLE BEVERAGE CONTAINERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.3(16) is hereby amended by adding at the end thereof a new subparagraph d. to read as follows:

"d. 'Sales price' shall not include any amounts charged as deposits on beverage containers which are returnable to vendors for reuse and which amounts are refundable or creditable to vendees, whether or not said deposits are separately charged."

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 3rd day of April, 1975.

H. B. 151 CHAPTER 105

AN ACT TO AMEND G.S. 153A-335 TO MODIFY THE AUTHORITY OF ONSLOW COUNTY TO REGULATE THE SUBDIVISION OF LAND.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of G.S. 153A-335, all land which is subdivided among heirs shall be exempt from any regulation enacted pursuant to G.S. Chapter 153A, Article 18, Part 2.

Sec. 2. Notwithstanding the provisions of G.S. 153A-335, the division of land into parcels greater than one acre where no street right-of-way dedication is involved shall be exempt from any regulation enacted pursuant to G.S. Chapter 153A, Article 18, Part 2.

Sec. 3. This act shall apply only to Onslow County.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1975.

S. B. 348 CHAPTER 106

AN ACT TO PROVIDE THAT CERTAIN SECOND OR SUCCESSIVE SPOUSES MAY DISSENT FROM A WILL IF THEY RECEIVE ONE-HALF OF AN INTESTATE SHARE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 30-1(a) is hereby amended by deleting the period following the word "parent" and inserting in lieu thereof the following: ", or"; and is further amended by adding a new subdivision (3) as follows:

"(3) Is less than the one-half of the amount provided by the Intestate Succession Act in those cases where the surviving spouse is a second or successive spouse and the testator has surviving him lineal descendants by a former marriage and there are no lineal descendants surviving him by the second or successive marriage."

Sec. 2. This act shall apply to the estates of decedents dying after October 1, 1975.

Sec. 3. This act shall become effective October 1, 1975.

In the General Assembly read three times and ratified, this the 4th day of April, 1975.

H. B. 22 CHAPTER 107

AN ACT TO MAKE A TECHNICAL AMENDMENT IN THE LAW RELATING TO THE QUALIFICATIONS OF AN APPLICANT FOR CERTIFICATION AS A CERTIFIED PUBLIC ACCOUNTANT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 93-12(5), second paragraph, second sentence, as the same appears in Volume 2C of the General Statutes of North Carolina is hereby amended to read as follows:

"Such applicant, in addition to passing satisfactorily the examination given by the Board, shall have had at least two years' experience on the field staff of a certified public accountant or a North Carolina public accountant in public practice, or shall have served two or more years under the direct supervision of a certified public accountant, as an internal revenue agent or special agent under a District Director of Internal Revenue, or on the field staff of the North Carolina State Auditor, or on the field staff of the Accounting Division of the North Carolina Utilities Commission, or with the United States Defense Contract Audit Agency, and shall have the endorsement of three certified public accountants as to his eligibility."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of April, 1975.

H. B. 171 CHAPTER 108

AN ACT TO AMEND G.S. 93A-2 RELATING TO THE DEFINITION OF A REAL ESTATE BROKER.

The General Assembly of North Carolina enacts:

Section 1. G.S. 93A-2(a), as the same appears in the 1974 Cumulative Supplement to Volume 2C of the General Statutes, is amended by adding a sentence thereto as follows: "A broker shall also be deemed to include a person, partnership, association, or corporation who for a fee sells or offers to sell the name or names of persons, partnerships, associations, or corporations who have real estate for rental, lease, or sale."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of April, 1975.

H. B. 222 **CHAPTER 109**

AN ACT TO PERMIT REPLACEMENT OF INSPECTION CERTIFICATES UPON REPLACEMENT OF WINDSHIELDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-183.6 is hereby amended by designating the existing section as subsection (a) and adding a new subsection to be designated subsection (b) and to read as follows:

"(b) Notwithstanding any other provision of this Article, those who replace windshields in motor vehicles shall place on the replacement windshield an inspection certificate having the same expiration date as the certificate attached to the windshield removed and shall retain the certificate attached to the windshield removed until 30 days after the expiration thereof. In addition to the authority granted in subsection (a), the Commissioner is hereby authorized to adopt and enforce such rules and regulations as may be necessary to carry out the provisions of this section."

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 7th day of April, 1975.

H. B. 264 **CHAPTER 110**

AN ACT TO AMEND THE NORTH CAROLINA CONSUMER FINANCE ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 53-173(a) is amended by striking the words and numerals "two and one-half percent (2-1/2%)" and substituting in lieu thereof the words and numerals "three percent (3%)."

Sec. 2. G.S. 53-173.2 is repealed.

Sec. 3. This act shall become effective 30 days after ratification.

In the General Assembly read three times and ratified, this the 7th day of April, 1975.

S. B. 42 **CHAPTER 111**

AN ACT TO AMEND G.S. 1-79 RELATING TO THE RESIDENCE OF DOMESTIC CORPORATIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1-79, as the same appears in the 1974 Cumulative Supplement to Volume 1A of the General Statutes, is hereby rewritten to read as follows:

"§ 1-79. *Domestic corporations.*—For the purpose of suing and being sued the residence of a domestic corporation is as follows:

(1) Where the registered or principal office of the corporation is located, or

(2) Where the corporation maintains a place of business.

(3) If no registered or principal office is in existence, and no place of business is currently maintained or can reasonably be found, the term 'residence' shall include any place where the corporation is regularly engaged in carrying on business."

Sec. 2. This act shall become effective January 1, 1976.

In the General Assembly read three times and ratified, this the 8th day of April, 1975.

S. B. 169 CHAPTER 112

AN ACT TO AMEND G.S. 93A-4, RELATING TO THE RENEWAL OF REAL ESTATE LICENSES, SO AS TO PERMIT THE REAL ESTATE LICENSING BOARD TO RENEW LICENSES FOR A PERIOD OF THREE YEARS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 93A-4(c), as the same appears in the 1974 Cumulative Supplement to Volume 2C of the General Statutes, is amended by striking the period at the end of the second sentence thereof, and substituting a comma and adding the following:

"provided, the Board may by regulation require the renewal of such licenses for periods not exceeding three years upon payment of a renewal fee of ten dollars ($10.00) for each twelve-month period; provided further, that in the event of the licensee's death, removal to another state or upon voluntary surrender of the renewed license the Board shall, upon written application by the licensee or his estate, (administrator, executor, or personal representative) refund the amount of the renewal fee prepaid for the unexpired license year or years other than the current year and the renewal receipt or pocket card shall contain notice of this refund provision."

Sec. 2. This act shall become effective on January 1, 1976.

In the General Assembly read three times and ratified, this the 8th day of April, 1975.

S. B. 239 CHAPTER 113

AN ACT TO ALLOW FOR BROADER INVESTMENTS OF THE ESCHEAT FUND.

The General Assembly of North Carolina enacts:

Section 1. G.S. 116A-8(c), as the same appears in the 1974 Cumulative Supplement to Volume 3A of the General Statutes, is hereby amended on lines one and two by deleting the words "in his discretion, as provided for State funds generally.", and inserting in lieu thereof the following: "in the same manner that the Board of Trustees Teachers' and State Employees' Retirement System may invest and reinvest under the provisions of G.S. 135-7 and G.S. 135-7.1."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of April, 1975.

H. B. 249

CHAPTER 114

AN ACT AUTHORIZING THE ESTABLISHMENT OF A CITY LIQUOR CONTROL STORE IN THE CITY OF CHERRYVILLE, UPON A VOTE OF THE PEOPLE, AND PROVIDING FOR THE ALLOCATION OF THE NET PROCEEDS FROM THE OPERATION OF SUCH STORE.

The General Assembly of North Carolina enacts:

Section 1. The governing body of the City of Cherryville may, if requested by a petition signed by at least fifteen percent (15%) of the registered voters of Cherryville, order an election to be held on the question of whether or not a city liquor control store may be operated in the City of Cherryville, and if a majority of the votes cast in such election shall be for the operation of such a store, it shall be legal for a liquor control store to be set up and operated in said city under provisions of this act. In the event the governing body of the City of Cherryville orders a special election herein provided for, said election shall be held on such date as determined by said governing body. Provided, that the special election shall not be held on or within 60 days of any biennial election for county officers.

Sec. 2. In calling for such special liquor election, the board of elections shall give at least 30 days public notice of the same prior to the closing of the registration books. A new registration of voters for such special liquor election shall not be held and all qualified voters who are properly registered prior to registration for the special election and those who register in said special liquor election shall be entitled to vote in said election. In said election a ballot shall be used upon which shall be printed on separate lines for each proposition, "For City Liquor Control Store", "Against City Liquor Control Store". Those favoring setting up and operating a liquor store in the City of Cherryville shall mark in the voting square to the left of the words "For City Liquor Control Store", printed on the ballot; and those opposed to a city liquor control store shall mark in the voting space to the left of the words "Against City Liquor Control Store". Except as otherwise herein provided, the special election authorized shall be conducted under the same statutes, rules and regulations applicable to municipal elections in the City of Cherryville.

Sec. 3. If, after the first election, upon a petition signed by at least fifteen percent (15%) of the registered and qualified voters of the city, the governing body shall call an election and at such election a majority of the votes shall be "Against City Liquor Control Store", the city liquor control board shall within three months from the canvassing of such votes and the declaration of the result thereof, close said store and shall thereafter cease to operate the same, and within said three months the city control board shall dispose of all alcoholic beverages on hand, all fixtures, and all other property in the hands and under the control of said board and convert the same into cash and turn the same over to the city treasurer. Thereafter, all public, public-local and private laws applicable to the sale of intoxicating beverages within said City of Cherryville in force and effect prior to the authorization to operate a city liquor store shall be in full force and effect the same as if such election had not been held until and unless another election is held under the provisions of this act in which a majority of the votes shall be cast "For City Liquor Control Store". No election shall be called and held in the City of Cherryville under the provisions of this section within three years from the holding of the last election thereunder. It shall be

the duty of the governing body of the City of Cherryville to order the special liquor election herein authorized in this section within 60 days after a sufficient petition has been filed requesting the same. But no election under this act shall be held on the day of any biennial county or city general election or primary election, or within 60 days of any such election.

Sec. 4. If the operation of a city liquor control store is authorized under the provisions of this act, the mayor and governing body of the City of Cherryville shall immediately appoint a city Board of Alcoholic Control, to be composed of a chairman and two other members who shall be well known for their character, ability and business acumen. Said board shall be known and designated as "The City of Cherryville Board of Alcoholic Control". The chairman of said Board shall be designated by the governing body of the city and shall serve for his first term a period of two years, and the other member shall serve for a period of one year; and all terms shall begin with the date of their appointment, and after the first terms shall have expired, their successors in office shall serve for a period of three years. Their successors, or any vacancy occurring in the Board, shall be named or filled by the governing board of the city. The Board of Alcoholic Control shall report monthly to the city board the status and financial condition of the Alcoholic Control Board and the books of the said Board of Alcoholic Control shall be available for inspection and examination by the members of the city board at any time.

Sec. 5. The City of Cherryville Board of Alcoholic Control shall have all of the powers and duties imposed by Chapter 18A of the General Statutes on County Boards of Alcoholic Control, except as otherwise provided herein, and shall be subject to the powers and authority of the State Board of Alcoholic Control the same as county boards of alcoholic control as provided in Chapter 18A of the General Statutes. The said City of Cherryville Board of Alcoholic Control and the operation of any city liquor store authorized under the provisions of this act shall be subject to and in pursuance with the provisions of Chapter 18A of the General Statutes, except to the extent which the same may be in conflict with the provisions of this act. Whenever the word "County" Board of Alcoholic Control appears in said Chapter, it shall include the City of Cherryville Board of Alcoholic Control.

Sec. 6. The net profits, as determined by quarterly audit, shall be distributed and used as follows: After deducting from the gross receipts realized from the sale of alcoholic beverages all salaries, expenses, and after retaining sufficient working capital, the ABC Board shall pay the net profits, as determined by quarterly audit, to the General Fund of the City of Cherryville. The City ABC Board shall not employ any ABC officers. The provisions of subdivision (14) of G.S. 18A-17 (concerning expenditures for law enforcement, education on the use of alcohol, and rehabilitation of alcoholics) shall not apply to the City of Cherryville Board of Alcoholic Control.

The City of Cherryville is authorized to expend the net profits for any proper governmental purpose and shall employ additional law enforcement officers to enforce the ABC laws if the governing body deems it necessary. If the first election is against city liquor control stores, then no other election shall be held pursuant to this act.

Sec. 7. The City of Cherryville is hereby authorized to hold an election in accordance with the provisions of G.S. 18A-52 and G.S. 18A-53, but only on the following issue:

☐ FOR "off-premises" sale of unfortified wine and beer.
☐ AGAINST "off-premises" sale of unfortified wine and beer.

Sec. 8. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of April, 1975.

H. B. 304 CHAPTER 115

AN ACT TO AUTHORIZE THE CITY OF CHARLOTTE TO ADOPT AND ENACT ORDINANCES REGULATING THE REMOVAL, REPLACEMENT AND PRESERVATION OF TREES WITHIN THE CITY OF CHARLOTTE.

The General Assembly of North Carolina enacts:

Section 1. The purpose and intent of this act is to authorize the City of Charlotte to adopt ordinances, only after holding public hearings, to regulate the removal of trees from public and private property within the City of Charlotte in order to preserve, protect and enhance one of the most valuable natural resources of the community and to protect the health, safety and welfare of its citizens.

Sec. 2. This act shall apply only to the City of Charlotte.

Sec. 3. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 4. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 8th day of April, 1975.

H. B. 420 CHAPTER 116

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF ALCOHOLIC BEVERAGE CONTROL STORES AND UNCHILLED WINE AND MALT BEVERAGE SALES IN THE TOWN OF VALDESE.

The General Assembly of North Carolina enacts:

Section 1. An election shall be called in the Town of Valdese upon written request of the Board of Commissioners of the Town of Valdese or upon a petition to the appropriate Board of Elections conducting elections for the Town on the question of submitting to the qualified voters of the Town the question of setting up and operating in the Town of Valdese an alcoholic beverage control store, or stores, as herein provided.

Sec. 2. The election shall be called in the Town of Valdese by the Board of Elections conducting elections in said Town only upon the written request of the Board of Commissioners of the Town of Valdese, or upon a petition to the Board of Elections signed by a number of voters of the Town of Valdese equal to at least twenty percent (20%) of the number of registered voters of the Town of Valdese according to the registration figures as certified by the Board of Elections on the date the petition is presented to the appropriate Board of Elections. In calling the special election, the Board of Elections shall give at least 30 days' public notice of the election before the closing of the registration books for said election, and the registration books shall close at the same time as for a regular Town election. A new registration of voters for such special

alcoholic beverage control election is not required, and all qualified electors who are properly registered prior to the registration for the special election, as well as those electors who register for the special alcoholic beverage control election, shall be entitled to vote in the election.

Sec. 3. Unless otherwise specified in this act, the procedural requirements relating to the petition shall be as provided in G.S. 18A-52(b), (c), (d), and (e), except the question shall be "FOR" and "AGAINST" municipal alcoholic beverage control stores.

Sec. 4. The appropriate Board of Elections shall immediately call an election pursuant to the provisions of G.S. 18A-52, which is hereby adopted, subsections (a) through (i), except that subsection (j) shall allow the presentation of one or more of the following:

"FOR" or "AGAINST" off-premises sales only of unchilled unfortified wine.

"FOR" or "AGAINST" off-premises sales only of unchilled malt beverages. This section shall in no way be construed as to limit the provisions of G.S. 18A-52, but is solely to allow the additional questions as to unchilled malt beverages or wine to be presented to the voters in addition to those contained in subsection (j) pursuant to the 1973 amendment of the North Carolina Legislature or to be in addition to any questions which might later be allowed by the Legislature.

Sec. 5. Those favoring the setting up and operation of alcoholic beverage control stores in the Town of Valdese shall mark in the voting square to the left of the words "For municipal alcoholic beverage control stores" printed on the ballot, and those opposed to setting up and operating alcoholic beverage control stores in the Town of Valdese shall mark in the voting square to the left of the words "Against municipal alcoholic beverage control stores," printed on the same ballot. If a majority of the votes cast in such election shall be for municipal alcoholic beverage control stores, then an alcoholic beverage control store, or alcoholic beverage control stores, may be set up and operated in the Town of Valdese as herein provided. If a majority of the votes cast at the election are against municipal alcoholic beverage control stores, then no alcoholic beverage control store shall be set up or operated in the Town of Valdese under the provisions of this act.

Sec. 6. If the operation of a municipal alcoholic beverage control store is authorized under the provisions of this act, the Mayor and Board of Commissioners of the Town of Valdese shall immediately create a town board of alcoholic control to be composed of a chairman and two other members who shall be well known for their character, ability and business acumen. Said board shall be known and designated as "The Town of Valdese Board of Alcoholic Control". The chairman of said board shall be designated by the Mayor and governing body of the Town and shall serve for his first term a period of three years and one member shall serve for his first term a period of two years, and the other member shall serve for a period of one year; and all terms shall begin with the date of their appointment, and after the said terms shall have expired, their successors in office shall serve for a period of three years. Their successors and any vacancy occurring in the board shall be named or filled by the Mayor and the governing body of the Town.

Sec. 7. The said Town of Valdese Board of Alcoholic Control shall have all the powers and duties imposed by the General Statutes on county boards of

alcoholic control and shall be subject to the powers and authority of the State Board of Alcoholic Control the same as county boards of alcoholic control as provided in the General Statutes. The net profits remaining after first deducting necessary working capital, salaries and expenses, including those sums expended for law enforcement and for education on the excessive use of alcoholic beverages and for the rehabilitation of alcoholics as required by G.S. 18A-17, shall be distributed to the general fund of the Town of Valdese to be used for any lawful purposes. The said Town of Valdese Board of Alcoholic Control and the operation of any town liquor store authorized under the provisions of this act shall be subject to and in pursuance with the provisions of Chapter 18A of the General Statutes, except to the extent which the same may be in conflict with the provisions of this act. Wherever the word "county" board of alcoholic control appears in said Chapter, it shall include the Town of Valdese Board of Alcoholic Control.

Sec. 8. The appropriate Board of Elections shall, upon request by the Board of Commissioners or a petition signed by twenty percent (20%) of all registered voters of the Town, call a subsequent election for the purpose of voting "For" or "Against" liquor control stores. If a subsequent election shall be held and at such election a majority of the votes shall be cast "Against Municipal Alcoholic Beverage Control Stores", the Board of Alcoholic Control shall, within three months from the canvassing of such votes and the declarations of the result thereof, close said store and shall thereafter cease to operate the same, and within said three months the Board shall dispose of all alcoholic beverages on hand, all fixtures, and all other property in the hands and under the control of said Board and convert the same into cash and turn the same over to the Town Finance Officer. Thereafter, all Public, Public-Local, Private and Session Laws applicable to the sale of intoxicating beverages within said Town of Valdese in force and effect prior to the authorization to operate a municipal alcoholic beverage control store shall be in full force and effect as if such election had not been held, until and unless another election is held under the provisions of this act in which a majority of the votes shall be cast "For Municipal Alcoholic Beverage Control Stores". No election shall be called and held in the Town of Valdese under the provisions of this act within three years from the holding of the last election thereunder. It shall be the duty of the Board of Elections conducting elections for the Town of Valdese to order the special liquor election herein authorized within 60 days after request by the Board of Commissioners or a sufficient petition has been filed requesting the same. But no election under this act shall be held on the day of any biennial county or town general election or primary election, or within 45 days of any such election.

Sec. 9. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of April, 1975.

S. B. 180 **CHAPTER 117**

AN ACT TO AMEND G.S. 15A-1021 TO REMOVE THE RESTRICTION ON TRIAL JUDGE PARTICIPATION IN PLEA BARGAINING DISCUSSIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-1021(a), Chapter 1286 of the 1973 Session Laws, is hereby amended by deleting in its entirety the last sentence thereof and by rewriting said sentence to read as follows: "The trial judge may participate in the discussions."

Sec. 2. This act shall become effective on the same date on which Chapter 15A of the General Statutes, entitled "Criminal Procedure Act" and enacted as Chapter 1286 of the 1973 Session Laws, becomes effective.

In the General Assembly read three times and ratified, this the 9th day of April, 1975.

S. B. 347 **CHAPTER 118**

AN ACT TO AMEND CHAPTER 28A ENTITLED "ADMINISTRATION OF DECEDENTS' ESTATES" TO DELAY ITS EFFECTIVE DATE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 1329 of the Session Laws of 1973, codified as Chapter 28A of the General Statutes, entitled "Administration of Decedents' Estates", is amended by changing the effective date in Section 5 thereof from "July 1, 1975" to "October 1, 1975".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of April, 1975.

H. B. 178 **CHAPTER 119**

AN ACT TO CHANGE PROCEDURES FOR THE DISPOSITION OF SURPLUS REAL PROPERTY AT CAMP BUTNER.

The General Assembly of North Carolina enacts:

Section 1. G.S. 122-93 is hereby repealed in its entirety and Article 12 of Chapter 122 of the General Statutes is amended by adding a new section G.S. 122-93.1 to read as follows:

"§ 122-93.1. *Disposition of surplus real property.*—Disposition of surplus real property at Camp Butner shall be made in accordance with the procedures outlined in Chapter 146 of the General Statutes of North Carolina."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of April, 1975.

H. B. 312 **CHAPTER 120**

AN ACT TO AMEND CHAPTER 722, SESSION LAWS OF 1965, RELATING TO DISTRIBUTION OF ABC FUNDS FOR LAW ENFORCEMENT FOR THE TOWN OF NORWOOD, NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. Section 5 of Chapter 722, Session Laws of 1965, is amended by rewriting the first two sentences thereof to read as follows:

"The Board of Alcoholic Control shall pay, quarterly, to the Town of Norwood not less than five percent (5%) and not more than fifteen percent (15%) of the gross profits from the sale of alcoholic beverages, and the Town of Norwood shall expend such funds for law enforcement purposes."

Sec. 2. This act shall be retroactive and effective as of July 1, 1973.

In the General Assembly read three times and ratified, this the 9th day of April, 1975.

H. B. 415 **CHAPTER 121**

AN ACT TO AMEND G.S. 36-32 TO PERMIT ALL FIDUCIARIES TO HOLD STOCKS AND BONDS IN THE NAME OF A NOMINEE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 36-32 as the same was variously amended by Chapter 144 and Section 1 of Chapter 497 of the 1973 Session Laws is hereby further amended and rewritten to read as follows:

"§ 36-32. *Fiduciaries holding stock or other securities in name of nominee.*— A fiduciary may hold shares of stock or other securities in the name of a nominee without mention of the fiduciary relationship in the instrument representing stock or other securities or in registration records of the issuer thereof; provided that

(a) the records and all reports or accounts rendered by the fiduciary clearly show the ownership of the stock or other securities by the fiduciary and the facts regarding its holdings, and

(b) the nominee shall not have possession of the stock or other securities or access thereto except under the immediate supervision of the fiduciary or when such securities are deposited by the fiduciary in a clearing corporation as defined in G.S. 25-8-102(3).

The fiduciary shall be personally liable for any acts or omissions of such nominee in connection with such stock or other securities so held, as if such fiduciary had done such acts or been guilty of such omissions."

Sec. 2. Chapter 144 and Section 1 of Chapter 497 of the 1973 Session Laws and all other laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of April, 1975.

H. B. 448 **CHAPTER 122**

AN ACT TO AUTHORIZE THE QUALIFIED VOTERS OF THE CITY OF ARCHDALE TO DETERMINE WHETHER OR NOT ALCOHOLIC BEVERAGE CONTROL STORES MAY LEGALLY BE OPERATED IN SAID CITY.

The General Assembly of North Carolina enacts:

Section 1. The City of Archdale is hereby authorized to hold an election to determine whether or not alcoholic beverage control stores may be operated in said City. The City Council of the City of Archdale may call a special election on said questions at an election to be held on such date as the Council may determine. Said election may be called and held on a date to be fixed by the Council, but said election shall not be held within 45 days of the date of any general, special, or primary election to be held in the City. Provided, however, that said election may be held, in the discretion of the Council, on the same day of a general, special, or primary election held within the City. Said election shall be conducted by said Council and the costs thereof shall be paid from the general fund of said City.

Sec. 2. A new registration for voters for such election shall not be necessary and all qualified voters who are properly registered prior to registration for the election and those who register for said election shall be entitled to vote in said election. Except as otherwise herein provided, if a special election is called the special election authorized shall be conducted under the same statutes, rules and regulations applicable to general elections for the City of Archdale.

Sec. 3. The ballot shall give the voter the opportunity to vote "For" or "Against" the question presented thereon.

On the issue of whether to establish City Alcoholic Beverage Control Stores, the ballots shall contain the following:

"FOR Alcoholic Beverage Control Stores.

AGAINST Alcoholic Beverage Control Stores."

Sec. 4. If a subsequent election shall be held and at such election a majority of the votes shall be cast "Against Alcoholic Beverage Control Stores," the Alcoholic Beverage Control Board shall within three months from the canvassing of such votes and the declaration of the results thereof, close said stores and shall thereafter cease to operate the same and within said three months the Alcoholic Beverage Control Board shall dispose of all alcoholic beverages on hand, all fixtures and all other properties in the hands and under the control of said Board and convert the same into cash and deposit the same into the general fund of the City of Archdale. Thereafter, any and all public, local and private laws applicable to the sale of alcoholic beverages within the City in force and effect prior to the authorization to operate alcoholic beverage control stores shall be in full force and effect the same as if such election had not been held, and until or unless another election is held under the provisions of the act in which a majority of the votes shall be cast "For Alcoholic Beverage Control Stores". No election shall be called and held in the City of Archdale under the provisions of this act within three years from the holding of the last election thereunder. The City Council of the City of Archdale may on its own motion and shall upon a petition to said council, signed by at least fifteen

percent (15%) of the registered and qualified voters of the municipality, order a subsequent election to be held.

Sec. 5. If the operation of alcoholic beverage control stores is authorized under the provisions of this act, the Mayor and City Council of the City of Archdale shall immediately create a City Board of Alcoholic Control to be composed of a Chairman and two other members who shall be well known for their character, ability and business acumen. Said Board of Alcoholic Control shall be known and designated as the "City of Archdale Board of Alcoholic Control". The Chairman of said Board shall be designated by the Mayor and the City Council of the City and shall serve for his first term a period of three years, and one member shall serve for his first term a period of two years, and the other member shall serve for a period of one year; and all terms shall begin with the date of their appointment, and after the said terms shall have expired, their successors in office shall serve for a period of three years. Their successors, or any vacancy occurring in the Board, shall be named or filled by the Mayor and the City Council of the City.

Sec. 6. The City of Archdale Board of Alcoholic Control shall have all of the powers and duties imposed by Section 18A-17 of the General Statutes of North Carolina on county boards of alcoholic control and shall be subject to the powers and authority of the State Board of Alcoholic Control the same as county boards of alcoholic control as provided in G.S. 18A-15 of the General Statutes. The said City of Archdale Board of Alcoholic Control in the operation of any City liquor stores authorized under the provisions of this act shall be subject to the provisions of Chapter 18A of the General Statutes, except to the extent which the same may be in conflict with the provisions of this act. Whenever the word "county" board of alcoholic control appears in said Chapter, it shall include the City of Archdale Board of Alcoholic Control.

Sec. 7. The net profits derived from the operation of liquor control stores in the City of Archdale shall be divided as follows:

(1) Seventy-five percent (75%) shall be turned over to the general fund of the City of Archdale to be expended for any purpose or purposes, including recreation, deemed fit and proper by the City Council.

(2) Fifteen percent (15%) shall be expended for law enforcement in the City.

(3) Ten percent (10%) shall be expended for education on the excessive use of alcoholic beverages and for the rehabilitation of alcoholics.

Sec. 8. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 9. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of April, 1975.

S. B. 177 **CHAPTER 123**

AN ACT TO AMEND CHAPTER 108 OF THE GENERAL STATUTES RELATING TO PAYMENTS FROM THE STATE FUND FOR MEDICAL ASSISTANCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 108-60, as the same appears in Volume 3A of the 1974 Cumulative Supplement to the General Statutes of North Carolina, is hereby amended by inserting in line 10 thereof after "of" and before "services" the words "health-related".

Sec. 2. G.S. 108-60 is further amended by adding after "Services Commission.", on line 11, the following sentence:

"Payments may also be made from the fund to such fiscal intermediaries and to such prepaid health service contractors as may be authorized by the Social Services Commission."

Sec. 3. All contracts entered into under the provisions of this act shall be subject to the approval of the Advisory Budget Commission.

Sec. 4. This act shall become effective upon ratification, and shall expire on July 1, 1977.

In the General Assembly read three times and ratified, this the 10th day of April, 1975.

S. B. 327 **CHAPTER 124**

AN ACT TO PROVIDE FOR THE COMPENSATION OF MEMBERS OF THE GATES COUNTY BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. The compensation of the Chairman of the Gates County Board of Education is hereby fixed at forty dollars ($40.00) per meeting and the compensation of the other members of said Board is hereby fixed at thirty-six dollars ($36.00) per meeting. In addition, all Board members shall be entitled to compensation for travel commensurate with other local agencies.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of April, 1975.

H. B. 310 **CHAPTER 125**

AN ACT TO AMEND G.S. 106-568 BY ADDING THERETO A SECTION 106-568.35 TO AUTHORIZE, AS NEEDED, A SHIFT FROM POLLING PLACE VOTING TO MAIL VOTING FOR ANY TOBACCO ASSOCIATES REFERENDUM.

The General Assembly of North Carolina enacts:

Section 1. Article 50-C ("Promotion of Sale and Use of Tobacco") of Chapter 106 of the General Statutes of North Carolina is amended by adding at the end of said Article a new section to read as follows:

"§ 106-568.35. *Alternate provision for referendum voting by mail.*—(a) At any time when it may be found that it is not desirable or reasonably possible to conduct a referendum by written ballots to be cast at polling places (as provided in G.S. 106-568.23 and G.S. 106-568.24 of this Article), the Board of Directors

of Tobacco Associates, Inc., by an affirmative vote of not less than two-thirds of its members (which vote shall include the affirmative vote of not less than two-thirds of such Board members who were elected by North Carolina farm organizations), may prescribe and provide for a vote by mail by written or printed ballot.

(b) In the event that the Board of Directors shall decide to conduct the referendum by mail vote, the Board shall prescribe the rules and regulations under which such mail referendum shall be conducted; shall provide the necessary ballots and cause them to be mailed to the farmers of North Carolina who produce flue-cured tobacco; shall provide envelopes for the return of such ballots by individual voters; shall cause to be published through the medium of the public press in the State of North Carolina notice of the holding of such referendum at least 30 days before the mailing out of the ballots; shall give direct written notice of such proposed mail referendum to all statewide farm organizations within the State of North Carolina and to each County Agent in each County in which flue-cured tobacco is grown; shall provide a closing date for the return of the ballots; shall provide for the receipt and safe guarding of such ballots; and, within 30 days of the date set as the latest date for the return of such ballots, shall canvass the ballots and publish and declare the results of such referendum."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of April, 1975.

H. B. 328 CHAPTER 126

AN ACT TO AMEND G.S. 106-50.10, RELATING TO THE MINIMUM PLANT FOOD CONTENT OF MIXED FERTILIZERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 106-50.10, as the same appears in the 1974 Cumulative Supplement to Volume 3A of the General Statutes, and which reads as follows:

"No superphospate containing less than eighteen percent (18%) available phosphoric acid nor any mixed fertilizer in which the sum of the guarantees for the nitrogen, available phosphoric acid, and soluble or available potash totals less than twenty percent (20%) may be offered for sale, sold, or distributed in this State."

is rewritten in its entirety to read as follows:

"No superphosphate containing less than eighteen percent (18%) available phosphoric acid nor any mixed fertilizer in which the sum of the guarantees for the nitrogen, available phosphoric acid, and soluble or available potash totals less than twenty percent (20%) may be offered for sale, sold, or distributed in this State; provided, however, the minimum plant food requirement contained herein shall not apply to containers of 16 fluid ounces or less when in liquid form nor to containers of 16 ounces or less avoirdupois when in a dry form, but such packages are not exempt from any other requirements of this Article."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of April, 1975.

H. B. 337 **CHAPTER 127**

AN ACT TO AMEND G.S. 106-50.5, RELATING TO THE LABELING OF MIXED FERTILIZERS SO AS TO REQUIRE THAT THE REGISTRATION AND THE LABEL CARRY IDENTICAL GUARANTEES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 106-50.5, as the same appears in Volume 3A of the General Statutes, is amended by adding a subsection (d) thereto as follows:

"(d) All fertilizer labels and registrations shall carry identical guarantees for each product."

Sec. 2. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 10th day of April, 1975.

H. B. 396 **CHAPTER 128**

AN ACT TO AMEND G.S. 143B-181 TO BRING THE GOVERNOR'S COORDINATING COUNCIL ON AGING INTO COMPLIANCE WITH FEDERAL REGULATIONS.

The General Assembly of North Carolina enacts:

Section 1. Amend 143B-181 of the General Statutes as follows:

(1) By rewriting the first sentence to read as follows: "The Governor's Coordinating Council on Aging of the Department of Human Resources shall consist of 30 members, 26 members to be appointed by the Governor, two members to be appointed by the Lieutenant Governor, and two members to be appointed by the Speaker of the House of Representatives."

(2) In the second sentence, after the word "follows:" change the number "seven" to "eight" and after "Public Education;" insert "the Department of Human Resources Special Assistant for Coordination of Nutrition Programs;".

(3) Delete the last clause in the first paragraph which begins with "and 11 members at large...." and rewrite as follows: "and 19 members-at-large shall be actual consumers of services of programs supported through Title III and Title VII of the Older Americans' Act of 1965 as amended, including low income, and minority older persons, at least in proportion to the number of minority older persons in the State. The Governor shall appoint 15 members-at-large who shall meet these qualifications. The four remaining members-at-large, two of whom shall be appointed by the Lieutenant Governor and two of whom shall be appointed by the Speaker of the House of Representatives, shall be broadly representative of the major private agencies and organizations in the State who are experienced in or have demonstrated particular interest in the special needs of the elderly. The Council shall meet preferably bi-monthly, but at least quarterly."

Sec. 2. Further amend by rewriting the second paragraph to read as follows: "Present at-large members of the Council shall serve for a period equal to the remainder of their current terms on the Governor's Coordinating Council on Aging, two of whose appointments expire June 30, 1975, two of whose appointments expire June 30, 1976, six of whose appointments expire June 30, 1977, and one whose appointment expires June 30, 1978. Two new members-at-large shall be appointed whose terms shall expire June 30, 1975, one to be

appointed by the Governor and one to be appointed by the Lieutenant Governor; two new members-at-large shall be appointed whose terms shall expire June 30, 1976, one to be appointed by the Governor and one to be appointed by the Speaker of the House of Representatives; four new members-at-large shall be appointed whose terms shall expire June 30, 1978, two to be appointed by the Governor, one to be appointed by the Lieutenant Governor, and one to be appointed by the Speaker of the House of Representatives; thereafter, at-large members shall be appointed for full four-year terms and until their successors are appointed and qualify. Ad interim appointments shall be for the balance of the unexpired term."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of April, 1975.

H. B. 441 CHAPTER 129

AN ACT TO PROVIDE ADDITIONAL CIVIL REMEDIES FOR LOSSES CAUSED BY ACCEPTANCE OF RETURNED CHECKS.

The General Assembly of North Carolina enacts:

Section 1. Article 2 of Chapter 6 of the General Statutes of North Carolina is amended by adding a new section to read as follows:

"§ 6-21.3. *Remedies for returned check.*—In an action by a holder to recover the sum payable of a check drawn by the defendant on which payment has been refused by the payor bank because the drawer had no account or insufficient funds, upon a determination that the plaintiff has prevailed the presiding judge or magistrate shall add to the amount due to the plaintiff the sum of five dollars ($5.00) to defray the costs of processing the returned check, and the presiding judge or magistrate shall tax to the defendant, as part of the court costs payable, a reasonable attorney's fee to the duly licensed attorney representing the plaintiff in such suit upon a finding (1) that at least 10 days prior to instituting the action the plaintiff mailed the defendant written notice at the defendant's last known address of the intent to file such suit if payment for the check was not received, and (2) that the defendant failed to deliver payment or evidence of bank error to the plaintiff within 10 days after mailing of such notice."

Sec. 2. This act shall take effect upon ratification but shall not affect pending cases.

In the General Assembly read three times and ratified, this the 10th day of April, 1975.

S. B. 193 CHAPTER 130

AN ACT TO PROVIDE FOR THE IMPOSITION OF A FRANCHISE TAX ON HOLDING COMPANIES AND TO LIMIT FRANCHISE TAX PAYMENTS BY HOLDING COMPANIES AND THEIR SUBSIDIARIES DOING BUSINESS IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. Article 3 of Subchapter I of Chapter 105 of the General Statutes is amended by adding thereto a new G.S. 105-120.2, immediately following G.S. 105-120.1, to read as follows:

"§ 105-120.2. *Franchise or privilege tax on holding companies.*—(a) Every corporation, domestic and foreign, incorporated or, by an act, domesticated under the laws of this State or doing business in this State which, at the close of its taxable year is a holding company as defined in subsection (c) of this section, shall, pursuant to the provisions of G.S. 105-122:

(1) make a report and statement, and

(2) determine the total amount of its issued and outstanding capital stock, surplus and undivided profits, and

(3) apportion such outstanding capital stock, surplus and undivided profits to this State.

(b) (1) Every corporation taxed under this section shall annually pay to the Secretary of Revenue, at the time the report and statement are due, a franchise or privilege tax, which is hereby levied, at the rate of one dollar and fifty cents ($1.50) per one thousand dollars ($1,000) of the amount determined under subsection (a) of this section, but in no case shall the tax be more than seventy-five thousand dollars ($75,000) nor less than ten dollars ($10.00).

(2) Notwithstanding the provisions of paragraph (1) of this subsection, if the tax produced pursuant to application of this paragraph (2) exceeds the tax produced pursuant to application of paragraph (1), then the tax shall be levied at the rate of one dollar and fifty cents ($1.50) per one thousand dollars ($1,000) on the greater of the amounts of

(A) fifty-five percent (55%) of the appraised value as determined for ad valorem taxation of all the real and tangible personal property in this State of each such corporation plus the total appraised value of intangible property returned for taxation of intangible personal property as computed under G.S. 105-122(d); or

(B) the total actual investment in tangible property in this State of such corporation as computed under G.S. 105-122(d).

(c) For purposes of this section, a holding company is any corporation which receives during its taxable year more than eighty percent (80%) of its gross income from corporations in which it owns directly or indirectly more than fifty percent (50%) of the outstanding voting stock.

(d) In determining the total tax payable by any corporation under this section, there shall be allowed as credit on such tax the amount of intangibles tax paid on bank deposits under the provisions of Section 105-199 to the extent that such deposits have been concurrently included in the alternative appraised value tax base pursuant to the provisions of this section except that the minimum tax herein provided shall not be less than ten dollars ($10.00).

(e) Counties, cities and towns shall not levy a franchise tax on corporations taxed under this section. The tax imposed under the provisions of G.S. 105-122 shall not apply to businesses taxed under the provisions of this section."

Sec. 2. This act shall become effective with respect to taxable years beginning on and after January 1, 1976.

In the General Assembly read three times and ratified, this the 11th day of April, 1975.

S. B. 200 **CHAPTER 131**

AN ACT TO AUTHORIZE COMMUNITY SERVICE AS A CONDITION OF PROBATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15-199 is amended by adding a new paragraph at the end thereof to read as follows:

(15) Perform certain reasonable and useful community activities under appropriate supervision.

Sec. 2. This act shall be in full force and effect on and after July 1, 1975.

In the General Assembly read three times and ratified, this the 11th day of April, 1975.

S. B. 279 **CHAPTER 132**

AN ACT TO AMEND CHAPTER 15 OF THE GENERAL STATUTES TO SUBSTITUTE DIRECTOR OF PRISONS FOR WARDEN OF THE INSTITUTION AS PERSON TO PRESENT APPLICATION FOR A REQUISITION OF A FUGITIVE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15-77(b), as it presently appears in the Volume 1C of the 1965 Replacement Volume of the General Statutes of North Carolina, is hereby amended by striking in fourth line thereof the words, "warden of the institution" and substituting in lieu thereof the words "Director of Prisons" and by striking the comma (,), after the word "county" in the fifth line thereof.

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1975.

S. B. 289 **CHAPTER 133**

AN ACT TO AUTHORIZE AND EMPOWER THE GOLDSBORO CITY BOARD OF EDUCATION TO CONVEY TO THOMPSON ORPHANAGE AND TRAINING INSTITUTION THE LEGAL TITLE TO CERTAIN LAND IN EXCHANGE FOR THE CONVEYANCE AND RELEASE OF THE RIGHT, TITLE, INTEREST AND ESTATE OF THOMPSON ORPHANAGE AND TRAINING INSTITUTION IN CERTAIN OTHER LAND.

Whereas, Thompson Orphanage and Training Institution owns certain property fronting on North Drive in the City of Goldsboro, Wayne County, North Carolina, adjacent to a site owned by the Goldsboro City Board of Education; and

Whereas, Thompson Orphanage and Training Institution by virtue of a deed recorded in Book 624, page 429 in the Wayne County Registry, has a private easement over, upon and across that certain 60-foot strip of land owned by the Board and lying immediately south of and adjacent to the land owned by Thompson Orphanage and Training Institution for its full depth of 400 feet; and

Whereas, at the time said easement was granted it was contemplated that the easement area would become a public street; and

Whereas, the plan to make said easement area a public street has been abandoned; and

Whereas, Thompson Orphanage and Training Institution has proposed to convey and release to the Goldsboro City Board of Education all of its right, title, interest and estate in and to the southernmost 40 feet of said easement area provided the Goldsboro City Board of Education will convey to it the fee simple title to the northernmost 20 feet of said easement area; and

Whereas, the Goldsboro City Board of Education has adopted a resolution declaring that the northernmost 20 feet of that certain 60-foot easement area described in a deed recorded in Book 624, page 429 in the Wayne County Registry, is unnecessary for public school purposes; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The Goldsboro City Board of Education is authorized and empowered to execute and deliver an appropriate deed of conveyance to Thompson Orphanage and Training Institution conveying in fee simple the northernmost 20 feet of that certain 60-foot private easement described in a deed recorded in Book 624, page 429 in the Wayne County Registry, in exchange for the delivery of an appropriate deed from Thompson Orphanage and Training Institution conveying and releasing to the Goldsboro City Board of Education all of its right, title, interest and estate in and to the southernmost 40 feet of such easement area as described in the deed referred to above.

Sec. 2. The Goldsboro City Board of Education shall not be required to comply with the public sale provisions of G.S. 115-126(a), or any other provisions of law, with respect to the transaction described in Section 1 of this act.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1975.

S. B. 444 CHAPTER 134

AN ACT TO AMEND CHAPTER 1073, 1959 SESSION LAWS RELATING TO THE ISSUANCE OF PISTOL PERMITS IN PERSON COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 1073, Session Laws of 1959, is amended by striking the word "Person" appearing in line 5 of Section 4 thereof. It is the intent and purpose of this act to transfer to the Sheriff of Person County the duties now performed by the Clerk of the Superior Court of Person County in issuing permits for the purchase of weapons and keeping the records of issuance of such permits.

Sec. 2. This act shall become effective on the first day of the next succeeding month following ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1975.

S. B. 132

CHAPTER 135

AN ACT TO RESTRICT THE EXERCISE OF A POWER FOR A FIDUCIARY'S BENEFIT.

The General Assembly of North Carolina enacts:

Section 1. Chapter 32 of the General Statutes is hereby amended by the addition of a new Article 4, as follows:

"Article 4.

"Restrictions on Exercise of Power for Fiduciary's Benefit.

"§ 32-29. *Restriction on exercise of power for fiduciary's benefit.*—(a) Except as provided in subsection (b), a power conferred upon a person in his capacity as fiduciary to make discretionary distributions of principal or income to himself or to make discretionary allocations in his own favor of receipts or expenses as between income and principal cannot be exercised by him. If the power is conferred on two or more fiduciaries, it may be exercised by the fiduciaries who are not so disqualified. If there is no fiduciary qualified to exercise the power, it may be exercised by a special fiduciary appointed by the court. This section shall apply to all trusts now in existence and to all other trusts that shall come into existence after the effective date of this section.

(b) This section shall not apply to:

(1) trusts now in existence in which the fiduciary is also the creator of the trust and is living; or

(2) trusts that shall come into existence after the effective date of this section in which the fiduciary is also the creator of the trust, is living, and the trust instrument shows a clear intent that this section shall not apply."

Sec. 2. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 14th day of April, 1975.

S. B. 206

CHAPTER 136

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER FOR THE TOWN OF BEULAVILLE.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Beulaville is hereby revised and consolidated to read as follows:

"THE CHARTER OF THE TOWN OF BEULAVILLE.

"ARTICLE I. Incorporation and Corporation Powers.

"Section 1.1. *Incorporation and general powers.*—The Town of Beulaville shall continue to be a body politic and corporate under the name of the 'Town of Beulaville', and shall continue to be vested with all property and rights which now belong to the town; shall have perpetual succession; may sue and be sued; may contract; may acquire and hold all such property, real and personal, as may be devised, bequeathed, sold or in any manner conveyed or dedicated to it, or otherwise acquired by it, and may from time to time hold or invest, sell, or dispose of the same; and shall have and may exercise in conformity with this Charter all municipal powers, functions, rights, privileges, and immunities of every name and nature whatsoever.

"Sec. 1.2. *Exercise of powers.*—All powers, functions, rights, privileges and immunities of the town, its officers, agencies, or employees, shall be carried into execution as provided by this Charter, or if this Charter makes no provisions, as provided by the general laws of North Carolina pertaining to municipal corporations, their officers, agencies or employees, and as provided by ordinance or resolution of the town board.

"ARTICLE II. Corporate Boundaries.

"Sec. 2.1. *Town boundaries and map.*—(a) The boundaries of the town shall be those existing at the time of adoption of this Charter with such alterations as may be made from time to time in the manner provided by law. As of the effective date of this Charter, the said boundaries shall constitute the territory embraced within the following boundaries:

The boundaries of said Town of Beulaville shall embrace the following territory:

BEGINNING at a stake which is located North fourteen degrees thirty minutes east 2045 feet from the intersection of the center of Jackson Street with the center of Front Street in said Town of Beulaville, said point of intersection being marked by a cement monument located at said intersection by R. W. Craft, surveyor, by direction of said town; and running from said stake so located at the northern terminus of said 2045 foot line, North seventy-four degrees thirty minutes west 3020 feet to an iron stake; thence South fourteen degrees thirty minutes west crossing the Hallsville public road 5000 feet to an iron stake; thence South seventy-four degrees thirty minutes east 7280 feet to an iron stake; thence North fourteen degrees thirty minutes east 5000 feet to an iron stake; thence North seventy-four degrees thirty minutes west 4260 feet to the BEGINNING.

"ARTICLE III. Charter Amendments.

"Sec. 3.1. *Incorporation of amendments.*—(a) As soon as possible after the adjournment of each General Assembly, the town attorney shall present to the town board copies of all local laws relating to the Town of Beulaville that were enacted by such General Assembly, whether or not amending in terms this Charter, which he recommends be incorporated into this Charter. Such recommendations may include suggestions for renumbering or rearranging the provisions of such laws, for providing titles and catch lines, and for such other changes in arrangement and form that do not change the law as may be necessary to implement the purpose of this Article.

(b) After considering the recommendations of the town attorney, the town commissioners may provide for the incorporation of such laws into this Charter.

(c) The purpose of this section is to enable the town to maintain at all times a current and accurate town Charter, organized in clear and orderly fashion, and embracing all pertinent local laws relating to the town.

"ARTICLE IV. Mayor and Board of Commissioners.

"Sec. 4.1. *Composition of Board of Commissioners; designation and duties of Mayor.*—(a) The governing body of the Town of Beulaville shall consist of a mayor and five commissioners who shall be residents of the town.

(b) The mayor and the members of the town board shall be elected from the city at large.

(c) The person receiving the highest number of votes for the office of mayor shall be declared elected.

(d) The mayor shall take the required oath of office before the town clerk to perform faithfully the duties of the office of mayor and as required by the general laws of North Carolina.

(e) The mayor shall be the official head of the town and shall preside at all meetings of the town board. In the absence or the disability of the mayor, the mayor pro tem shall perform his duties. In the absence or disability of both the mayor and the mayor pro tem the board shall designate one of its members to perform such duties. In the event of the resignation of the mayor the members of the board shall by a majority vote elect a mayor as provided by the General Statutes of the State of North Carolina.

(f) The Board of Commissioners shall consist of five members. In the regular municipal election to be held in 1973, five commissioners shall be elected, and biennially thereafter, three commissioners or two commissioners and the mayor shall be elected.

The mayor and two commissioners who receive the most votes in the municipal elections of 1973, shall be elected for four-year terms.

The remaining three commissioners shall be elected for two-year terms and at the expiration of the two-year terms, the successors in office of the above mentioned three commissioners shall be elected for four-year terms.

"Sec. 4.2. *Organization of Board; oath of office.*—The Board of Commissioners shall at 7:30 o'clock p.m. on the first Monday in December following the date of their election meet and organize for the transaction of official municipal business. Before entering upon their offices the commissioners shall severally take the required oath before the town clerk to perform faithfully the duties of their respective offices. Any elected commissioners not present at the organization meeting may take the oath of office within 30 days, and the failure on the part of any elected commissioners to take said oath within 30 days forfeits his right to the office and the board shall have the authority to fill the vacancy.

"Sec. 4.3. *Mayor pro tem.*—The mayor pro tem shall be elected by the town board from among its own members and he shall hold such office for the term for which he has been elected to the board. In the absence, disability, or resignation of the mayor, the mayor pro tem shall, to the extent permitted by the General Statutes of the State of North Carolina perform the mayor's duties, and until a mayor has been selected as provided in Article IV, Section 4.1(e) of this Charter.

"Sec. 4.4. *Rules and journal of proceedings.*—The town board shall determine its own rules and order of business and shall cause to be kept a journal of its proceedings.

"Sec. 4.5. *Mayor and Commissioners to hold no other offices.*—Neither the mayor nor any member of the town board shall hold any other office or position of trust, profit, or honor under the town government.

"Sec. 4.6. *Exercise of town powers.*—(a) The town board shall direct the exercise of all of the powers of the town, except as otherwise provided by this Charter.

(b) In addition to the specific powers herein conferred, and to other powers conferred upon it by general law, the town board may adopt and provide for the execution of such ordinances, rules, and regulations, not inconsistent with this Charter, as may be necessary or appropriate for the preservation and promotion

of the health, safety, comfort, convenience, good order, better government, and the general welfare of the town and its inhabitants.

"ARTICLE V. Administrative Officers and Personnel.

"Sec. 5.1. *Appointment and removal; compensation; duties; grievances.*—(a) The town board, except as may be delegated to department heads from time to time, shall appoint and may suspend and remove all town employees and heads of departments, and, in its discretion, may employ consultants of any kind when needed.

(b) All salaries and compensation shall be fixed or approved by the town board.

(c) Town employees and department heads shall perform such duties as may be required of them under the general direction and regulations of the town board.

(d) The town board reserves the right to provide that upon the recommendation of a department head any employee shall be given the right to present his grievance to the board.

"Sec. 5.2. *Town attorney.*—The town attorney shall be appointed by the town board, and shall have the following duties: (1) to serve as legal advisor to the town board, the clerk, the finance officer, the tax collector, and all town departments, officers and agencies; (2) to represent as counsel the town, its officers, agents or employees, in any legal action arising out of or connected with the proper functions of the town, unless disqualified so to act; (3) to draft such ordinances, resolutions and documents as requested by the town board.

"Sec. 5.3. *Town clerk.*—The town clerk shall be appointed by the town board, and shall act as clerk to the town board, attend all meetings thereof, and maintain a permanent record of all proceedings thereof.

"Sec. 5.4. *Town finance officer.*—The town board shall appoint a finance officer, who shall execute the duties set out in the Local Government Budget and Fiscal Control Act.

"Sec. 5.5. *Town tax collector.*—The town board shall appoint a tax collector for the town, who shall be charged with the collection of all taxes and assessments.

"Sec. 5.6. *Consolidation of functions of certain offices.*—The town board may, in its discretion, consolidate the offices of town clerk, town finance officer, and town tax collector, and may assign the functions of any one of these offices to the holder of any other of these offices.

"Sec. 5.7. *Oath of office.*—Before entering upon the discharge of their duties, the holders of the following offices and positions shall be required to take the oath prescribed for public officers, before the mayor or the town clerk: the town clerk, town finance officer, tax collector, any assistant town clerk or assistant tax collector, or assistant tax treasurer, chief of police and each member of the police force, the building inspector and all employees empowered to enforce the Building Code.

"ARTICLE VI. Taxation.

"Sec. 6.1. *Powers of taxation.*—The town shall have all taxing power and authority delegated to municipal corporations by general law.

"Sec. 6.2. *Additional remedies for collection of privilege license taxes.*—In addition to any other civil or criminal remedy available to enforce the collection of privilege license taxes, the tax collector may employ the remedies of levy upon

personal property, attachment, and garnishment, in the manner and subject to the limitations provided by general law for the collection of ad valorem taxes.

"ARTICLE VII. Assessment for Street Improvements.

"Sec. 7.1. *Power generally.*—In addition to any authority which is now or may hereafter be granted by general law to the Town of Beulaville for making street improvements, the town board is authorized to make street improvements, and assess the cost thereof against abutting property owners in accordance with the provisions of this Article.

"Sec. 7.2. *When petition unnecessary.*—The town board may order street improvements and assess the cost thereof, exclusive of the cost incurred at street intersections, against the abutting property owners at an equal rate per front foot, without the necessity of a petition, upon the finding by the town board as a fact:

(a) That the street improvement project does not exceed twelve hundred lineal feet; and

(b) That such street or part thereof is unsafe for vehicular traffic and it is in the public interest to make such improvement; or

(c) That it is in the public interest to connect two streets or portions of a street already improved; or

(d) That it is in the public interest to widen a street or part thereof, which is already improved; provided, that assessment for widening any street or portion of street without petition shall be limited to the cost of widening and otherwise improving such street in accordance with the street classification and improvement standards established by the town's thoroughfare or major street plan for the particular street or part thereof to be widened and improved under the authority granted by this action.

"Sec. 7.3. '*Street improvement' defined.*—For the purposes of the preceding section, the term 'street improvement' shall include grading, regrading, surfacing, resurfacing, widening, paving, repaving, and the construction or reconstruction of curbs, gutters and street drainage facilities.

"Sec. 7.4. *Assessment procedure.*—In ordering street improvement without a petition and assessing the cost thereof under authority of this Article, the town board shall comply with the procedure provided by Article 10, Chapter 160A-216 through 236 of the North Carolina General Statutes, except those provisions relating to the petition of property owners and the sufficiency thereof.

"Sec. 7.5. *Effect of assessments.*—The effect of the act of levying assessments under authority of this Article shall for all purposes be the same as if the assessments were levied under authority of Article 10, Chapter 160A-216 through 236 of the General Statutes of North Carolina.

"ARTICLE VIII. Establishment of Proposed Street Lines.

"Sec. 8.1. *Authority to establish proposed street lines.*—Whenever, in the opinion of the town board, it is in the best interest of the town to do so, the town board may make provision for the ultimate widening or extension or both of existing streets and for the opening of new streets, and for the gradual acquisition of the lands necessary for such improvements, in accordance with the procedure established by this Article.

"Sec. 8.2. *Platting of proposed street lines.*—From and after the time of adoption of a major street plan by the town board and the State Highway Commission pursuant to provisions of G.S. (the General Statutes of North

Carolina, section) 136-66.2, and as amended, the town board shall have power to request, make, or cause to be made, from time to time, surveys for the exact locating of the lines of new, extended, widened, or narrowed streets and highways in the whole or any portion of the town and the area within one mile outside of its corporate boundaries. Personnel making such surveys are empowered to enter upon lands, make examinations or surveys and place and maintain necessary monuments thereon, at reasonable times and with due care for the property. A plat or plats of the area or areas thus surveyed shall be prepared on which are indicated the location of the lines recommended as the planned or mapped lines of future streets, street extensions, street widening, or street narrowings. The preparation of such plat or plats shall not in and of itself constitute or be deemed to constitute the opening or establishment of any street or the taking or acceptance of any land for street purposes.

"Sec. 8.3. *Adoption of official map; hearing; notice.*—Following the preparation of such plats, the town board may officially adopt a map or maps of planned new street and highways, extensions, widenings, narrowings, or locations of streets within the town and the area within one mile outside of its corporate boundaries. Before taking any such action, the town board shall hold a public hearing thereof, notice of the time and place of which shall have been given once a week for two successive weeks in a newspaper publishing in the town, or if there be no newspaper published in the town, by posting such notice at four public places in the town and at four public places within the affected area outside of the corporate boundaries. Said notice shall be published or posted for the first time not less than fifteen days prior to the date fixed for said hearing. Following adoption of such map or maps, the town board shall certify a copy to the Register of Deeds of Duplin County, which copy shall be duly filed. The placing of any street or street line upon any official map or maps shall not in and of itself constitute or be deemed to constitute the opening or establishment of any street or the taking or acceptance of any land for street purposes.

"Sec. 8.4. *Right of town to acquire property before improvement.*—From and after the time of adoption and certification to the Register of Deeds of any such map or maps, it shall be unlawful to build upon any land within the lines of proposed streets shown thereon or to repair or otherwise improve any existing buildings within said lines until the town board shall have been given an opportunity to purchase or otherwise acquire said property for street purposes as provided by this Article. To that end, any person proposing to build upon such land or to make repairs or improvement to any existing buildings on such land, shall, in writing, notify the town board of the nature and estimated cost of such building, repairs, or improvements. The town board shall then determine whether it will take the necessary steps to acquire said land prior to construction of said buildings or the making of said repairs or improvements. If the town board fails, within sixty days from the receipt of such notice, to acquire, adopt a formal resolution directing an appropriate officer to acquire, or institute condemnation proceedings to acquire said property, then the owner or other person giving notice may proceed to erect the building or to make the repairs or improvements described in said notice. The building inspector is authorized to withhold and refrain from issuing, for a period not exceeding sixty days from receipt by the town board of the notice herein prescribed, any building permit for the erection of any building within the said lines, or for the making of any repairs or improvements to existing buildings within said lines.

"Sec. 8.5. *Failure to give notice bars recovery for value of improvements.*—If any person, firm or corporation builds upon any land included within said proposed street lines, or repairs or otherwise improves that part of any existing building within said lines, without giving the town board an opportunity to acquire said property free from improvements, as provided in Section 8.4 of this Article, the town shall not be required to pay for the value of said building, repairs, or improvements in any proceedings subsequently brought to acquire the land for the purpose shown on the officially adopted map or maps.

"Sec. 8.6. *Failure of town to act not to limit subsequent condemnation.*—The failure of the town board to take action under Sections 8.4 and 8.5 of this Article within sixty days after notice shall not have the effect of limiting the right of the town board at any subsequent time to condemn the same. In such case, however, the owner shall be entitled to full compensation as now provided by law for the building, repairs, or improvements made after the failure of the town board to take action within the prescribed period.

"ARTICLE IX. Zoning.

"Sec. 9.1. *Extraterritorial zoning.*—The town board shall have such authority to enact zoning regulations as is granted by the general law and as provided by North Carolina General Statutes (section) 160A-360; 160A-381.

"ARTICLE X. Police.

"Sec. 10.1. *Jurisdiction extended.*—(a) The jurisdiction of the police force is hereby extended to include all territory outside and within two miles of the corporate limits, and all members of the police force shall have within each territory, all rights, power, and authority, as they now have within the corporate limits.

(b) The jurisdiction of the police force is hereby extended to include all town-owned property and facilities, whether located within or outside the corporate limits, and all members of the police force shall have upon and within such property and facilities all rights, power and authority as they now have within the corporate limits.

"ARTICLE XI. Sidewalks.

"Sec. 11.1. *Town may clean or repair after notice; charges to be a lien.*—The town board may, by ordinance, establish a procedure whereby town forces may clean or repair any sidewalk upon failure of the abutting property owner after ten days' notice to do so. In such event, the cost of such cleaning or repair shall become a lien upon the abutting property equal to the lien for ad valorem taxes and may thereafter be collected either by suit in the name of the town or by foreclosure of the lien in the same manner and subject to the same rules, regulations, costs and penalties as provided by law for the foreclosure of the lien on real property for ad valorem taxes.

"ARTICLE XII. Refuse, Weeds and Trash.

"Sec. 12.1. *Property to be kept free of offensive matter.*—It shall be the duty of every property owner in the town to keep his property free from noxious weeds, trash, and all other forms of offensive animal or vegetable matter or refuse which may be dangerous or prejudicial to the public health or which may constitute a public nuisance.

"Sec. 12.2. *Removal of offensive matter; charges to be a lien.*—The town board may by ordinance establish a procedure whereby town forces may clean, cut, and remove any weeds, trash, refuse or other offensive matter from any property upon failure of the owner or occupant after ten days' notice to do so. In

such event, the cost of such cleaning, cutting and removal shall become a lien upon the particular property equal to the lien for ad valorem taxes and may thereafter be collected either by suit in the name of the town or by foreclosure of the lien in the same manner and subject to the same rules, regulations, costs and penalties as provided by law for the foreclosure of the lien on real property for ad valorem taxes.

"ARTICLE XIII. Purchasing and Contracts.

"Sec. 13.1. *Provisions of general law to govern.*—All contracts of the town for construction or repair work or for the purchase of apparatus, supplies, materials, or equipment shall be made in compliance with the requirements of Article 3, Chapter 143 of the General Statutes.

"Sec. 13.2. *Conflict of interest.*—No officer, department head, employee, or board or commission member shall make or participate in the making of any contract with the town in which he may be in any manner financially interested, directly or indirectly. Any such person who has such an interest in any proposed contract shall make known that interest. The willful concealment of such a financial interest or the willful violation of this section shall constitute malfeasance in office or position, and any violator shall forfeit his office or position. Violation of this section with the knowledge express or implied of the person, firm, or corporation contracting with the town shall render the contract void.

"ARTICLE XIV. Claims against the Town.

"Sec. 14.1. *Presentation of and suits upon claims.*—(a) All claims or demands against the Town of Beulaville arising in tort shall be presented to the town board in writing, signed by the claimant, his attorney or agent, within ninety days after the claim or demand is due or the cause of action accrues, and no suit or action shall be brought thereon within thirty days or after the expiration of twelve months from the time said claim or demand is so presented. Unless the claim or demand is so presented within ninety days after the cause of action accrues, and unless suit is brought within twelve months thereafter, any action thereon shall be barred.

(b) No action shall be instituted against the town on account of damages to or compensation for real property taken or used by the town for any public purposes of any kind or for the ejectment of the town therefrom, or to remove a cloud upon the title thereof unless, within two years after such alleged use, the owner, his executor, administrator, guardian or next friend shall have given notice in writing to the town board of the claim, stating in the notice the date that the alleged use commenced, a description of the property alleged to have been used, and the amount of damage or compensation claimed.

(c) Notwithstanding the provision of subsections (a) and (b) of this section, if a complainant suffers from physical or mental incapacity that renders it impossible for him to give notice, his action shall not be barred if notice of claim is given by him or in his behalf within six months after the termination of the incapacity, provided that minority shall not of itself constitute physical or mental incapacity. If the complainant is a minor, his action shall not be barred if notice of claim is given in his behalf within three years after the happening or the infliction of the injury complained of; or, if the minor suffers from physical or mental incapacity that renders it impossible for him to give notice, his action shall not be barred if notice of claim is given in his behalf within six months after termination of the incapacity, or within three years after the happening or

the infliction of the injury complained of, whichever is the longer period. The town may at any time request the appointment of a next friend to represent any person having a potential claim against the town and known to be suffering from physical or mental incapacity.

"Sec. 14.2. *Settlement of claims.*—The town clerk or finance officer, as authorized by the governing body of the town, may settle claims against the town for: (1) personal injury or damages to property when the amount involved does not exceed the sum of fifty dollars ($50.00) and does not exceed the actual loss sustained, including loss of time, medical expenses, and any other expense actually incurred, and (2) the taking of small portions of private property which are needed for the rounding of corners at street intersections, when the amount involved in any such settlement does not exceed fifty dollars ($50.00) and does not exceed the actual loss sustained. Any settlement of a claim by the town clerk or finance officer pursuant to this section shall constitute a complete release of the town from any and all damages sustained by the person involved in such settlement in any manner arising out of the accident, occasion, or taking complained of. All such releases shall be approved as to form by the town attorney.

"ARTICLE XV. Miscellaneous.

"Sec. 15.1. *Signing of warrants or orders for payment.*—Only the finance officer of the Town of Beulaville is authorized to sign warrants or orders for payment on the town treasury or depository.

"Sec. 15.2. It is the purpose of this act to revise and reorganize the Charter of the Town of Beulaville, North Carolina, Private Laws 1915, Chapter 378; Private Laws 1925, Chapter 16; Session Laws 1955, Chapter 277; Session Laws 1959, Chapter 268; Session Laws 1961, Chapter 463. Any and all private laws in conflict with this Charter are hereby repealed and all acts not inconsistent hereto are not affected."

Sec. 2. *Certain vested and derived rights preserved.* No provision of this act is intended, nor shall be construed, to affect in any way any rights or interest (whether public or private):

(a) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act.

(b) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken (including the adoption of ordinances or resolutions) pursuant to or within the scope of any provision of law so repealed.

Sec. 3. *No revival of prior acts.* No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(a) The repeal herein of any act repealing such law, or

(b) Any provision of this act that disclaims an intention to repeal or affect enumerated laws.

Sec. 4. *Ordinances, etc., to continue in effect.* Notwithstanding any other provisions of this act, all existing Beulaville ordinances and resolutions and existing rules or regulations of Town of Beulaville departments or agencies in effect at the time of the ratification of this act shall be and continue in full force and effect until repealed, amended or modified.

Sec. 5. No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act

by or against or before the Town of Beulaville or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

Sec. 6. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 14th day of April, 1975.

S. B. 229 CHAPTER 137

AN ACT TO AMEND G.S. 165-21 AS IT RELATES TO SCHOLARSHIPS PROVIDED FOR CHILDREN OF WAR VETERANS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 165-21(1)(d) as the same presently appears in the 1972 Replacement Volume 3D of the General Statutes is hereby amended to read:

"(d) Matriculation and other institutional fees required to be paid as a condition to remaining in said institution and pursuing the course of study selected, excluding charges or fees for books, supplies, tools and clothing."

Sec. 2. This act shall become effective July 1, 1975, and shall be applied beginning with the fall quarter, semester or term of the 1975 school year.

In the General Assembly read three times and ratified, this the 14th day of April, 1975.

S. B. 278 CHAPTER 138

AN ACT TO REPEAL G.S. 15-208 OF THE GENERAL STATUTES REQUIRING COSTS OF PROBATION TO BE PAID FROM STATE HIGHWAY FUNDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15-208, as it presently appears in the 1974 Cumulative Supplement, Volume 1C of the General Statutes of North Carolina, is hereby repealed.

Sec. 2. All laws and clauses of law in conflict with this act are hereby repealed.

Sec. 3. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 14th day of April, 1975.

S. B. 414 CHAPTER 139

AN ACT TO AUTHORIZE THE SHERIFF TO ISSUE WEAPONS PERMITS INSTEAD OF THE CLERK OF COURT.

The General Assembly of North Carolina enacts:

Section 1. Chapter 1073, Session Laws of 1959, is hereby amended by deleting from Section 4 thereof the word "Franklin".

Sec. 2. It is the intent and purpose of this act to transfer from the Clerk of Superior Court to the Sheriff of Franklin County the authority and duty to issue weapons permits as provided in Article 52A of Chapter 14 of the General Statutes of North Carolina.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of April, 1975.

H. B. 77 **CHAPTER 140**

AN ACT TO PERMIT CHOWAN COUNTY TO ASSIST IN THE FINANCING OF IMPROVEMENTS TO RURAL SUBDIVISON AND RESIDENTIAL STREETS AND LEVY SPECIAL ASSESSMENTS THEREFOR.

The General Assembly of North Carolina enacts:

Section 1. Chowan County may levy special assessments for constructing, reconstructing, paving, widening, installing curbs and gutters, and otherwise building and improving streets, as provided in this act.

Sec. 2. Chowan County may finance all or a portion of the cost of improvements made under the supervision of the Department of Transportation and Highway Safety to subdivision or residential streets located in the county and outside of a city and shall levy special assessments against benefited property to recoup that portion of the costs financed by the county. In levying special assessments, the county shall follow the procedures of G.S. 153A, Article 9; in addition, land owned, leased, or controlled by a railroad company is exempt from such assessments to the same extent that it would be exempt from street assessments of a city under G.S. 160A-222. No project may be commenced under this act unless it has been approved by the Department of Transportation and Highway Safety.

Sec. 3. On subdivision or residential streets that are a part of the State highway system, but that are not improved, the county may pay from funds not otherwise limited as to use by law the local share of the costs of improvement that is required by policies of the Secondary Roads Council. No petition from property owners is required in order for the county to pay these costs and levy special assessments therefor.

Sec. 4. On subdivision or residential streets that are not part of the State highway system, the county may pay from funds not otherwise limited as to use by law the local share of the costs of improvement that is required by policies of the Secondary Roads Council. Before the county may finance all or a portion of the cost of improvements to such a street, it must receive a petition for the improvements signed by at least a majority in number of the owners of property to be assessed, who must represent at least a majority of all the lineal feet of frontage of the lands abutting on the street or portion thereof to be improved. The petition shall state that portion of the cost of the improvement to be assessed, which shall be the local share required by policies of the Secondary Roads Council.

Property owned by the United States shall not be included in determining the lineal feet of frontage on the improvement, nor shall the United States be included in determining the number of owners of property abutting the improvement. Property owned by the State of North Carolina shall be included in determining frontage and the number of owners only if the State has consented to assessment as provided in G.S. 153A-189. Property owned, leased, or controlled by railroad companies shall be included in determining frontage and the number of owners to the extent the property is subject to assessment under G.S. 160A-222. Property owned, leased, or controlled by railroad

companies that is not subject to assessment shall not be included in determining frontage or the number of owners.

No right of action or defense asserting the invalidity of street assessments on grounds that the county did not comply with this section in securing a valid petition may be asserted except in an action or proceeding begun within 90 days after the day of publication of the notice of adoption of the preliminary assessment resolution.

Sec. 5. This act is intended to provide a means of assisting in financing improvements to subdivision and residential streets in Chowan County that are on the State highway system or that will, as a result of the improvements, become a part of that system. By financing improvements under this act, Chowan County does not thereby acquire any responsibility for the street or streets involved, and the county has no liability arising from the construction of such an improvement or the maintenance of such a street.

Sec. 6. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of April, 1975.

H. B. 335 CHAPTER 141

AN ACT TO AMEND CHAPTER 117 OF THE GENERAL STATUTES OF NORTH CAROLINA TO CONFER THE POWER OF EMINENT DOMAIN UPON ELECTRIC MEMBERSHIP CORPORATIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 117-18 is hereby amended by adding the following after the last sentence in subparagraph (6):

"Notwithstanding the foregoing sentence and notwithstanding subparagraph (7) of G.S. 117-2, electric membership corporations are hereby empowered, without necessity of the Authority's rulings or participation, to exercise the right of eminent domain for the purposes of constructing, operating and maintaining electric generating, transmission, distribution and related facilities, individually and solely in their own names, pursuant to the provisions of Chapter 40 of the General Statutes; provided, that notwithstanding G.S. 117-30, the foregoing grant of the power of eminent domain to electric membership corporations shall not apply to telephone membership corporations; and, provided further, that such grant of power shall be supplementary to the power of eminent domain already devolved upon the Authority."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of April, 1975.

H. B. 307 **CHAPTER 142**

AN ACT TO EXEMPT SCHOOLS, CHURCHES AND CIVIC ORGANIZATIONS FROM THE PRIVILEGE LICENSES REQUIRED OF OPERATORS OF GAMES, SHOWS AND AMUSEMENTS, TO PERMIT OPERATORS OF RIDING DEVICES TO ALSO OPERATE TWO OR LESS CONCESSION STANDS, AND TO PERMIT CARNIVALS TO PLAY ANY "STILL DATE" WITHOUT REGARD TO THE SCHEDULING OF ANY AGRICULTURAL FAIR.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-39(a) as the same appears in the 1974 Cumulative Supplement to Volume 2D of the General Statutes is hereby amended by:

(a) Rewriting the third paragraph thereof to read as follows:

"Provided, that when a person, firm or corporation exhibits only riding devices, or riding devices along with two or less concession stands which are not a part of, nor used in connection with any carnival company, the tax shall be five dollars ($5.00) per week for each such riding device or concession stand. In lieu of the five dollars ($5.00) per week tax levied herein, a person, firm or corporation may apply for an annual statewide license, and the same may be issued by the Secretary of Revenue for the sum of two hundred dollars ($200.00) per riding device or concession stand, paid in advance, prior to the first exhibition in the State, shall be valid in any county, and shall be in full payment of all State license taxes imposed in this section. Counties, cities and towns may levy and collect a license tax upon such riding devices or concession stands not in excess of five dollars ($5.00) for each such device or concession stand."

(b) Rewriting the last paragraph thereof to read as follows:

"Provided further, that except for the operation of two or less concession stands, as authorized above, it shall be unlawful under this section for the owners and/or operators of riding devices to operate, or cause to be operated, any show, game, stand or other attraction whatsoever."

Sec. 2. G.S. 105-39(b) as the same appears in the 1974 Cumulative Supplement to Volume 2D of the General Statutes is hereby amended by adding a new paragraph thereto to read as follows:

"The taxes levied herein shall not apply to any eating places or concession stands operated wholly and exclusively by any church, school, or civic organization."

Sec. 3. G.S. 105-39(c), as the same appears in the 1972 Replacement Volume 2D of the General Statutes, is hereby amended by:

(a) Rewriting the first sentence thereof to read as follows:

"Subject to the exceptions provided in subsection (b), no person, firm, or corporation, nor any aggregation of same, giving such shows, exhibitions, or performances, shall be relieved from the payment of the tax levied in this section, regardless of whether or not the State derives a benefit from the same."

Sec. 4. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 15th day of April, 1975.

H. B. 345 **CHAPTER 143**

AN ACT TO REQUIRE CERTAIN FOREIGN INSURANCE COMPANIES TO PAY PREMIUM TAXES QUARTERLY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-228.5 is hereby amended by substituting a semicolon for the period at the end of the first paragraph thereof and by adding the following proviso at the end of the first paragraph thereof:

"provided, however, that every company chartered in a state which requires companies chartered in North Carolina to pay taxes quarterly shall pay the taxes levied upon it herein quarterly, said taxes being paid on an estimated basis by the fifteenth day following the close of the first three calendar quarters and the balance by the next following March fifteenth in the same manner hereinafter provided for annual returns."

Sec. 2. This act shall be effective with respect to taxable years beginning on and after January 1, 1975.

In the General Assembly read three times and ratified, this the 15th day of April, 1975.

S. B. 222 **CHAPTER 144**

AN ACT TO AMEND CHAPTER 78A OF THE GENERAL STATUTES, THE NORTH CAROLINA SECURITIES ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 78A-25(c), as the same appears in the 1974 Cumulative Supplement to Volume 2C of the General Statutes, is hereby amended by striking the words "Eastern Standard Time" appearing in line 3 thereof and substituting in lieu thereof the words "Raleigh, North Carolina time".

Sec. 2. G.S. 78A-36(b), as the same appears in the 1974 Cumulative Supplement to Volume 2C of the General Statutes, is hereby amended by inserting the words "a bond or" in line 3 of the second paragraph thereof between the words "require" and "evidence".

Sec. 3. G.S. 78A-56(b), as the same appears in the 1974 Cumulative Supplement to Volume 2C of the General Statutes, is hereby amended by striking the second comma in line 4 thereof and by inserting the words "(the seller not knowing of the untruth or omission), and who does not sustain the burden of proof that he did not know, and in the exercise of reasonable care could not have known, of the untruth or omission," in line 4 thereof between the words "misleading" and "shall".

Sec. 4. G.S. 78A-63(b), as the same appears in the 1974 Cumulative Supplement to Volume 2C of the General Statutes, is hereby amended by striking the word "and" in line 1 thereof and by inserting "and 78A-56(b)" in line 1 thereof between the words "78A-36(a)" and "apply".

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of April, 1975.

S. B. 272 **CHAPTER 145**

AN ACT TO GRANT SPECIAL POLICE POWERS TO MEMBERS OF THE STATE LEGISLATIVE BUILDING SECURITY FORCE.

The General Assembly of North Carolina enacts:

Section 1. Article 7 of Chapter 120 of the General Statutes is amended by adding thereto a new section to read as follows:

"§ 120-32.2. *State Legislative Building special police.*—All members of the State Legislative Building Security Force employed by the Legislative Services Office are special policemen, and within the State Legislative Building and upon its grounds they shall have all the powers of policemen of incorporated towns.

As used in this section, 'grounds' means the area between the outer walls of the State Legislative Building and the near curb line of those sections of Jones, Wilmington, Lane and Salisbury Streets which border the land on which the State Legislative Building is situated. When the General Assembly is in regular or extra session, the term 'grounds' also includes the surface to the far curb line of those sections of Jones, Wilmington, Lane and Salisbury Streets which border the land on which the State Legislative Building is situated and any State-owned parking lot which is leased to the General Assembly while the General Assembly is in session."

Sec. 2. Article 7 of Chapter 120 of the General Statutes is further amended by adding thereto a new section to read as follows:

"§ 120-32.3. *Oath of State Legislative Building special police.*—Before exercising the duties of a special policeman, each State Legislative Building security officer shall take an oath before some officer empowered to administer oaths, and the oaths shall be filed with the Clerk of Superior Court of Wake County. The oath of office shall be as follows:

'State of North Carolina, Wake County.

I, _____, do solemnly swear (or affirm) that I will well and truly execute the duties of special policeman in the State Legislative Building and upon its grounds according to the best of my skill and ability and according to law; and that I will use my best endeavors to enforce all rules and regulations of the Legislative Services Commission concerning use of the State Legislative Building and its grounds. So help me, God.

Sworn and subscribed to before me, this the _____ day of _____, A.D. _____.'"

Sec. 3. Article 7 of Chapter 120 of the General Statutes is further amended by adding thereto a new subsection to read as follows:

"§ 120-32.1(c). *Regulation of parking in the State Legislative Building and on its grounds.*—When the General Assembly is in regular or extra session, the Legislative Services Commission shall have exclusive authority to assign parking space in the State Legislative Building and upon its grounds, as 'grounds' is defined in G.S. 120-32.3, and the State Legislative Building security force shall have exclusive authority and responsibility for enforcing the parking rules and regulations of the Legislative Services Commission. The Legislative Services Commission may cause to be removed at the owner's expense any vehicle parked in the State Legislative Building or on its grounds, in violation of the rules and regulations of the Legislative Services Commission, and during regular or extra sessions of the General Assembly may cause to be removed any vehicle parked in any State-owned parking space leased to an employee of the

General Assembly, where the vehicle is parked without the consent of the employee to whom the space is leased."

Sec. 4. This act shall become effective on April 18, 1975.

In the General Assembly read three times and ratified, this the 16th day of April, 1975.

H. B. 468 CHAPTER 146

AN ACT TO AMEND G.S. 160A-241 SO AS TO AUTHORIZE MUNICIPALITIES AND POLITICAL DIVISIONS OF MUNICIPALITIES TO USE THE PROCEDURE PROVIDED IN ARTICLE 9 OF CHAPTER 136 OF THE GENERAL STATUTES AS SPECIFICALLY AUTHORIZED BY G.S. 136-66.3(c) IN ACQUIRING LANDS, EASEMENTS, PRIVILEGES, RIGHTS-OF-WAY AND OTHER INTERESTS FOR PUBLIC PURPOSES IN THE EXERCISE OF THE POWER OF EMINENT DOMAIN, AND PROVIDING THAT THIS ACT SHALL APPLY ONLY TO THE CITY OF STATESVILLE.

The General Assembly of North Carolina enacts:

Section 1. Section 160A-241 of the General Statutes of North Carolina is hereby amended by adding at the end thereof a new paragraph to read as follows:

"The procedures provided in Article 9 of Chapter 136 of the General Statutes, as specifically authorized by G.S. 136-66.3(c), shall be applicable in the case of acquisition by a municipal corporation, or a political division thereof, of lands, easements, privileges, rights-of-way, and other interests in real property for sewer lines, water lines, electric power lines, and other utility lines in the exercise of the power of eminent domain; and such municipal corporation, or a political division thereof, seeking to acquire such property of rights or easements therein or thereto shall have the right and authority, at its option and election, to use the provisions and procedures as authorized and provided in G.S. 136-66.3(c) and Article 9 of Chapter 136 of the General Statutes for any of said purposes without being limited to streets constituting a part of the State Highway System."

Provided, however, that the provisions of this section shall not apply with regard to properties owned by public service corporations as defined in G.S. 160A-243(c) unless the exercise of such power of eminent domain is either consented to by the owner of the property to be acquired by the city or, otherwise, first adjudicated after notice and a hearing that such acquisition will not prevent or unreasonably impair the continued devotion to the public use of such properties and the operation by such public service corporation.

Sec. 2. This act shall apply only to the City of Statesville and land located within the corporate limits of Statesville.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of April, 1975.

H. B. 138 **CHAPTER 147**

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF ABERDEEN AND TO REPEAL PRIOR CHARTER ACTS.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Aberdeen is hereby revised and consolidated to read as follows:

"THE CHARTER OF THE TOWN OF ABERDEEN.

"ARTICLE I. INCORPORATION AND CORPORATE POWERS.

"Sec. 1.1. *Incorporation and General Powers.* The Town of Aberdeen shall continue to be a body politic and corporate under the name of the 'Town of Aberdeen', and shall continue to be vested with all property and rights which now belong to the Town; shall have perpetual succession; may have a common seal and alter and renew the same at pleasure; may sue and be sued; may contract, may acquire and hold all such property, real and personal, as may be devised, bequeathed, sold or in any manner conveyed or dedicated to it, or otherwise acquired by it, and may from time to time hold, invest, sell, or dispose of the same; and shall have and may exercise in conformity with this Charter all municipal powers, functions, rights, privileges, and immunities of every name and nature.

"Sec. 1.2. *Exercise of Powers.* All powers, functions, rights, privileges, and immunities of the Town, its officers, agencies, or employees, shall be carried into execution as provided by this Charter, or, if this Charter makes no provision, as provided by ordinance or resolution of the Board of Commissioners and as provided by the general laws of North Carolina pertaining to municipal corporations.

"Sec. 1.3. *Enumerated Powers Not Exclusive.* The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive but, in addition to the powers enumerated herein or implied hereby, or those appropriate to the exercise of such powers, the Town of Aberdeen shall have and may exercise all powers which are granted to municipal corporations by the general laws of North Carolina and all powers which, under the Constitution of North Carolina, it would be competent for this Charter specifically to enumerate.

"ARTICLE II. CORPORATE BOUNDARIES.

"Sec. 2.1. *Existing Corporate Boundaries.*

(a) The corporate limits of the Town of Aberdeen shall be those existing at the time of the ratification of this Charter and as the same may be altered from time to time in accordance with law. The Board of Commissioners shall cause to be prepared a map to be designated 'Map of the Town of Aberdeen Corporate Limits', showing the corporate limits as the same may exist as of the effective date of this Charter. The Board of Commissioners shall also cause to be prepared a written description of the corporate limits as shown on said map to be designated 'Description of Aberdeen Corporate Limits'. Said map and description shall be retained permanently in the Office of the Town Clerk as the official map and a description of the corporate limits of the Town. Immediately upon alteration of the corporate limits made pursuant to law from time to time the Board of Commissioners shall cause to be made the appropriate changes and/or additions to said official map and description. Photographic copies or other legible and permanent reproductions of said official map or description

certified as by law providing for the certification of ordinances shall be admissible into evidence in all courts and shall have the same force and effect as would the official map or description.

(b) The Town Board shall require the redrawing of the official map and the rewriting of the official description as may from time to time be required. A redrawn map and a rewritten description shall supersede for all purposes the earlier maps and descriptions which are respectively replaced.

"Sec. 2.2. *Extension of Corporate Boundaries.* All extensions of the corporate boundaries shall be governed by the General Statutes of North Carolina.

"ARTICLE III. MAYOR AND BOARD OF COMMISSIONERS.

"Sec. 3.1. *Composition of Board of Commissioners.* The Board of Commissioners shall consist of five members to be elected by the qualified voters of the Town voting at large in the manner provided in Article IV of this Charter.

"Sec. 3.2. *Mayor and Mayor Pro Tempore.* The Mayor shall be elected by and from the qualified voters of the Town voting at large in the manner provided in Article IV of this Charter. The Mayor shall be the official head of the Town government and shall preside at all meetings of the Board of Commissioners. When there is an equal division on a question, the Mayor shall resolve the deadlock by his vote, but he shall vote in no other case. The Mayor shall exercise such powers and perform such duties as are or may be conferred upon him by the general laws of North Carolina, by this Charter, and by the ordinances of the Town. The Board of Commissioners shall choose one of its number to act as Mayor Pro Tempore, and he shall perform the duties of the Mayor in the Mayor's absence or disability. The Mayor Pro Tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the Board.

"Sec. 3.3. *Terms; Qualifications; Vacancies.*

(a) The members of the Board of Commissioners shall serve for staggered terms of four years. The Mayor shall serve for a term of two years. Their terms shall begin on the day and hour of the organizational meeting in December following their election and they shall serve until their successors are elected and qualify.

(b) No person shall be eligible to be a candidate or to be elected as Mayor or as a member of the Board of Commissioners or to serve in such capacity, unless he is a resident and a qualified voter of the Town.

(c) In the event a vacancy occurs in the office of Mayor or Commissioner, the Board shall by majority vote appoint some qualified person to fill the same for the remainder of the unexpired term.

"Sec. 3.4. *Organization of Board of Commissioners; Oaths of Office.* The Board of Commissioners shall meet and organize for the transaction of business at the first regularly scheduled meeting of the Board in December following each biennial election. Before entering upon their offices, the Mayor and each Commissioner shall take, subscribe to and have entered upon the minutes of the Board the following oath of office:

'I, _____ do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office as _____ so help me, God.'

"Sec. 3.5. *Meetings of Board.* The Board of Commissioners shall fix a suitable time and place for its regular meetings, which shall be held at least as often as once monthly. Special meetings may be held according to the procedures and requirements designated by the general laws of North Carolina pertaining to special meetings of City Councils.

"Sec. 3.6. *Quorum; Votes.*

(a) A majority of the members elected to the Board of Commissioners shall constitute a quorum for the conduct of business, but a less number may adjourn from time to time and compel the attendance of absent members in such manner as may be prescribed by ordinance.

(b) The affirmative vote of a majority of the members elected to the Board of Commissioners not excused from voting on the question in issue shall be necessary to adopt any ordinance, or any resolution or motion having the effect of an ordinance. All other matters to be voted upon shall be decided by a majority vote of those present and voting.

"Sec. 3.7. *Ordinances and Resolutions.* The adoption, amendment, repeal, pleading, or proving of ordinances shall be in accordance with the applicable provisions of the general laws of North Carolina not inconsistent with this Charter. The ayes and noes shall be taken upon all ordinances and resolutions and entered upon the minutes of the Board. The enacting clause of all ordinances shall be: 'Be it ordained by the Board of Commissioners of the Town of Aberdeen'. All ordinances and resolutions shall take effect upon adoption unless otherwise provided therein.

"ARTICLE IV. ELECTIONS.

"Sec. 4.1. *Regular Municipal Elections.* The municipal elections shall be held and conducted by the Moore County Board of Elections. The regular municipal elections shall be nonpartisan and decided by simple plurality. The regular elections for municipal offices shall be on Tuesday after the first Monday in November in 1975 and every two years thereafter. The elections shall be held and conducted in accordance with the applicable provisions of Articles 23 and 24 of Chapter 163 of the General Statutes of North Carolina. Beginning in the regular election to be held in November, 1975, the three candidates for Commissioner receiving the highest number of votes shall be elected for terms of four years, and the two candidates receiving the next highest number of votes shall be elected for terms of two years. Thereafter, as their terms expire, their successors shall be elected for terms of four years.

"ARTICLE V. TOWN ATTORNEY.

"Sec. 5.1. *Appointment; Qualifications; Term; Compensation.* The Board of Commissioners shall appoint a Town Attorney who shall be an attorney at law licensed to engage in the practice of law in North Carolina and who need not be a resident of the Town during his tenure. The Town Attorney shall serve at the pleasure of the Board and shall receive such compensation as the Board shall determine.

"Sec. 5.2. *Duties of Town Attorney.* It shall be the duty of the Town Attorney to prosecute and defend suits against the Town; to advise the Mayor, Board of Commissioners and other Town officials with respect to the affairs of the Town; to draft all legal documents relating to the affairs of the Town; to draft proposed ordinances when requested to do so; to inspect and pass upon all agreements, contracts, franchises and other instruments with which the Town may be concerned; to attend all meetings of the Board of Commissioners when required

by the Board; and to perform such other duties as may be required of him by virtue of his position as Town Attorney.

"ARTICLE VI. ADMINISTRATIVE OFFICERS AND EMPLOYEES.

"Sec. 6.1. *Town Clerk.* The Board of Commissioners shall appoint a Town Clerk to keep a journal of the proceedings of the Board of Commissioners and to maintain in a safe place all records and documents pertaining to the affairs of the Town, and to perform such other duties as may be required by law or as the Board of Commissioners may direct.

"Sec. 6.2. *Town Tax Collector.* The Board of Commissioners shall appoint a Tax Collector to collect all taxes, licenses, fees and other moneys belonging to the Town, subject to the provisions of this Charter and the ordinances of the Town, and he shall diligently comply with and enforce all the general laws of North Carolina relating to the collection, sale and foreclosure of taxes by municipalities.

"Sec. 6.3. *Town Budget Officer.* The Board of Commissioners shall appoint a Town Budget Officer to perform the duties of the Budget Officer as required by the Local Government Budget and Fiscal Control Act.

"Sec. 6.4. *Town Finance Officer.* The Board of Commissioners shall appoint a Town Finance Officer to perform the duties of the Finance Officer as required by the Local Government Budget and Fiscal Control Act.

"Sec. 6.5. *Consolidation of Functions.* The Board of Commissioners may consolidate any two or more of the positions of Town Clerk, Town Tax Collector, Town Budget Officer, and Town Finance Officer, or may assign the functions of any one or more of these positions to the holder or holders of any other of these positions, subject to the Local Government Budget and Fiscal Control Act.

"ARTICLE VII. FINANCE.

"Sec. 7.1. *Custody of Town Money.* All moneys received by the Town for or in connection with the business of the Town government shall be paid promptly into the Town depository or depositories. Such institutions shall be designated by the Town Board in accordance with the regulations and subject to the requirements as to security for deposits and interest thereon as may be established by the General Statutes of North Carolina. All interest or moneys belonging to the Town shall accrue to the benefit of the Town. All moneys belonging to the Town shall be disbursed in accordance with the provisions of the Local Government Budget and Fiscal Control Act.

"Sec. 7.2. *Independent Audit.* As soon as possible after the close of each fiscal year, an independent audit shall be made of all books and accounts of the Town government by a certified public accountant or an accountant certified by the Local Government Commission. The audit shall be secured in accordance with the provisions of the Local Government Budget and Fiscal Control Act.

"ARTICLE VIII. POLICE.

"Sec. 8.1. *Jurisdiction.*

(a) In addition to their authority within the corporate limits, Town policemen shall have all the powers invested in law enforcement officers by statute or common law within that territory outside the corporate limits and within three miles thereof which does not lie within the corporate limits of any other municipality.

(b) The jurisdiction of the police force is hereby extended to include all Town-owned property and facilities whether located within or outside the

corporate limits, and all members of the police force shall have upon and within such property and facilities all rights, power and authority as they have within the corporate limits.

"ARTICLE IX. STREET AND SIDEWALK IMPROVEMENTS.

"Sec. 9.1. *Street Improvements; Assessment of Costs.* In addition to any authority which is now or may hereafter be granted by general law to the Town for making street improvements, The Board of Commissioners is hereby authorized to make street improvements and to assess the cost thereof against abutting property owners in accordance with the provisions of this Article.

"Sec. 9.2. *When Petition Unnecessary.* The Board of Commissioners may order street improvements and assess the cost thereof against the abutting property owners, exclusive of the costs incurred at street intersections, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the North Carolina General Statutes without the necessity of a petition, upon the finding by the Board as a fact:

(a) That the street improvement project does not exceed 1,200 linear feet, and

(b) That such street or part thereof is unsafe for vehicular traffic, and it is in the public interest to make such improvement, or

(c) That it is in the public interest to connect two streets, or portions of a street already improved, or

(d) That it is in the public interest to widen a street, or part thereof, which is already improved, provided, that assessments for widening any street or portion of street without a petition shall be limited to the cost of widening and otherwise improving such street in accordance with the street classification and improvement standards established by the Town's thoroughfare or major street plan for the particular street or part thereof to be widened and improved under the authority granted by this Article.

"Sec. 9.3. *Street Improvement Defined.* For the purposes of this Article, the term 'street improvement' shall include grading, regrading, surfacing, resurfacing, widening, paving, repaving, the acquisition of right-of-way, and the construction or reconstruction of curbs, gutters and street drainage facilities.

"Sec. 9.4. *Sidewalks; Assessment of Costs.* In addition to any authority which is now or may hereafter be granted by general law to the Town for making sidewalk improvements, the Board of Commissioners is hereby authorized without the necessity of a petition, to make or to order to be made sidewalk improvements or repairs according to standards and specifications of the Town, and to assess the total cost thereof against abutting property owners, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the North Carolina General Statutes; provided, however, that regardless of the assessment basis or bases employed, the Board of Commissioners may order the cost of sidewalk improvements made only on one side of a street to be assessed against property owners abutting both sides of such street.

"Sec. 9.5. *Assessment Procedure.* In ordering street and sidewalk improvements without a petition and assessing the cost thereof under authority of this Article, the Board of Commissioners shall comply with the procedure provided by Article 10, Chapter 160A of the General Statutes, except those provisions relating to the petition of property owners and the sufficiency thereof.

"Sec. 9.6. *Effect of Assessments.* The effect of the act of levying assessments under the authority of this Article shall for all purposes be the same as if the assessments were levied under authority of Article 10 of Chapter 160A of the General Statutes.

"Sec. 9.7. *Acceptance of Conveyance in Satisfaction of Assessments.* The Town Tax Collector or other official or employee of the Town having charge of the collection of special assessments, shall have the right, power, and authority by and with the approval of the Board of Commissioners first obtained, to receive and accept a fee simple conveyance to the Town of any lot or parcel of land in the Town, free and clear of other encumbrances, in settlement and satisfaction of all street and sidewalk assessments outstanding and unpaid against such property. Such right, power, and authority, however, shall be limited to a conveyance of the whole of the lot or parcel of land against which the particular assessment or assessments involved were levied. No lot or tract of land may be divided and no such right, power, and authority exercised as to a part, only, of the property originally embraced in and covered by said assessment or assessments. In the case of such conveyance, it shall not be necessary that the street or sidewalk assessment or assessments against the property be foreclosed; but the Town, upon the receipt of any such conveyance, shall become and be the absolute fee simple owner of the property, as fully to all intents and purposes as if purchased in and through foreclosure proceedings for the enforcement of such street and sidewalk assessment or assessments.

"ARTICLE XI. CLAIMS AGAINST THE TOWN.

"Sec. 11.1. *Presentation of Claims; Suit Upon Claims.*

(a) All claims or demands against the Town of Aberdeen arising in tort or in contract shall be presented to the Board of Commissioners in writing, signed by the claimant or his attorney or agent, within ninety days after the claim or demand is due or the cause of action accrues. No suit or action shall be brought thereon within thirty days, or after the expiration of twelve months, from the time said claim or demand is so presented. Unless the claim or demand is so presented within ninety days after the cause of action accrues, and unless suit is brought within twelve months thereafter, any action thereon is barred.

(b) No action shall be instituted against the Town for damages to or compensation for real property taken or used by the Town for any public purpose, or for the ejectment of the Town therefrom, or to remove a cloud upon the title thereof, unless, within two years after such alleged use, the owner, his executor, administrator, guardian, or next friend, shall have given notice in writing to the Board of Commissioners of the claim, including in the notice the date that the alleged use commenced, a description of the property alleged to have been used, and the amount of the damage or compensation claimed.

(c) Notwithstanding the provisions of subsections (a) and (b) of this Section, if a complainant suffers from physical or mental incapacity that renders it impossible for him to give notice, his action shall not be barred if notice of claim is given by him or on his behalf within six months after the termination of his incapacity; provided, that minority shall not of itself constitute physical or mental incapacity. If the complainant is a minor, his action shall not be barred if notice of claim is given on his behalf within three years after the occurrence of the infliction of the injury complained of; or, if the minor suffers from physical or mental incapacity that renders it impossible for him to give notice, his action shall not be barred if notice of claim is given on his behalf within six months

after termination of the incapacity, or within three years after the occurrence or the infliction of the injury complained of, whichever is the longer period. The Town may at any time request the appointment of a next friend to represent any person having a potential claim against the Town and known to be suffering from physical or mental incapacity."

Sec. 2. The purpose of this act is to revise the Charter of the Town of Aberdeen and to consolidate herein certain acts concerning the property, affairs, and government of the Town. It is intended to continue without interrruption those provisions of prior acts which are consolidated into this act, so that all rights and liabilities that have accrued are preserved and may be enforced.

Sec. 3. This act shall not be deemed to repeal, modify, or in any manner affect any of the following acts, portions of acts, or amendments thereto, whether or not such acts, portions of acts, or amendments are expressly set forth herein:

(a) Any acts concerning the property, affairs, or government of public schools in the Town of Aberdeen.

(b) Any acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind.

Sec. 4. The following acts or portions of acts, having served the purposes for which they were enacted, or having been consolidated into this act are hereby repealed:

Chapter	Laws
411	Private Laws 1901
220	Private Laws 1893
476	Public-Local Laws 1937
473	Session Laws 1957
140	Session Laws 1957
608	Session Laws 1957
485	Session Laws 1961

Sec. 5. No provision of this act is intended, nor shall be construed, to affect in any way any rights or interests (whether public or private):

(a) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act.

(b) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken (including the adoption of ordinances or resolutions) pursuant to or within the scope of any provision of law repealed by this act.

Sec. 6. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(a) The repeal herein of any act repealing such law, or

(b) Any provision of this act that disclaims an intention to repeal or effect enumerated or designated laws.

Sec. 7. (a) All existing ordinances and resolutions of the Town of Aberdeen and all existing rules or regulations of departments or agencies of the Town of Aberdeen not inconsistent with the provisions of this act, shall continue in full force and effect until repealed, modified or amended.

(b) No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act

by or against the Town of Aberdeen or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

Sec. 8. Severability. If any of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 9. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of April, 1975.

H. B. 490 CHAPTER 148

AN ACT TO AMEND G.S. 20-116(j) TO ELIMINATE SPECIAL PERMITS FOR THE OPERATION OF SELF-PROPELLED FARM EQUIPMENT AND TO REQUIRE THAT FLAGMEN UTILIZE VEHICLES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-116(j) is hereby amended by adding a comma in the first line thereof following the word "self-propelled" and then inserting the word "pulled" immediately before the word "or".

Sec. 2. G.S. 20-116(j) is hereby amended by striking the words ", and provided, that such combines or equipment may be operated on numbered federal or State highways exclusive of the Interstate System, only by special permit as provided in G.S. 20-119; permits issued in compliance with G.S. 20-119 for equipment covered under this section may be on an annual basis and shall expire on January 1 of the year next following the year of issuance" as the same appear in lines 4 through 9 of said subsection and by striking the word ", further," immediately succeeding the word "Provided" and preceding the word "that" in line 9 of said subsection.

Sec. 3. G.S. 20-116(j) is also amended by striking the words "; and said equipment shall travel only on routes designated by the special permit required under this section and for distances not to exceed 10 miles" as the same appear in lines 6 through 8 in subdivision (2) of said subsection.

Sec. 4. G.S. 20-116(j) is further amended by striking the words "requiring special permit to be operated on permissible or designated highways," in lines 1 and 2 of subdivision (3) thereof and by further striking the remainder of subdivision (3) immediately following the word "flagman" and beginning with the word "either" in line 7 of said subdivision and substituting in lieu thereof the following "in a vehicle having mounted thereon an appropriate warning light or flag." so that G.S. 20-116(j)(3) as rewritten shall read as follows:

"(3) Equipment by this section, which by necessity must travel more than 10 miles or where by nature of the terrain or obstacles the flags referred to in subdivision (2) are not visible from both directions for 300 feet at any point along the proposed route, must be preceded at a distance of 300 feet and followed at a distance of 300 feet by a flagman in a vehicle having mounted thereon an appropriate warning light or flag."

Sec. 5. When said equipment is causing a delay in traffic, the operator of said equipment shall move the equipment off the paved portion of the highway

at the nearest practical location until the vehicles following said equipment have passed.

Sec. 6. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of April, 1975.

S. B. 122 CHAPTER 149

AN ACT TO AMEND G.S. 163-137 TO PROVIDE FOR THE ARRANGEMENT OF NAMES ON THE BALLOT, AND TO AMEND G.S. 163-162 TO CLARIFY AUTHORITY TO PROVIDE PAPER BALLOTS FOR WRITE-IN VOTES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-137 is amended by adding a new subsection to read as follows:

"In a primary election the names of all candidates of the same political party for the same office shall be printed on the ballot either vertically or horizontally, and in no event shall both arrangements of names be used concurrently for candidates on the same ballot for the same office."

Sec. 2. G.S. 163-162 is rewritten to read as follows:

"§ 163-162. *Use of paper ballots where voting machines used.*—In counties in which voting machines are used in some or all precincts the county board of elections shall have authority to furnish paper ballots of each kind to precincts using voting machines for use by:

(a) Persons required to sign their ballots under the provisions of G.S. 163-150(e) and G.S. 163-155, and

(b) Persons who wish to write in names of candidates who are not on the ballot, if it is not practical to use voting machines to record write-in votes in particular precincts because of the horizontal or vertical printing limitations of G.S. 163-137."

Sec. 3. G.S. 163-160 is amended by adding a new subsection (9) to read as follows:

"(9) Use of paper ballots where voting machines are used as set out in G.S. 163-162."

Sec. 4. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 21st day of April, 1975.

H. B. 154 CHAPTER 150

AN ACT TO AMEND G.S. 115-53 TO INSURE MAXIMUM SAFETY FOR PUPILS BEING TRANSPORTED TO SCHOOL RELATED ACTIVITIES INCLUDING ATHLETIC EVENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115-53 as the same appears in Volume 3A, 1966 Replacement of the General Statutes, is amended by adding a new paragraph at the end to read as follows:

"County and city boards of education are authorized to purchase activity buses with local capital outlay tax funds, and authorized to maintain these buses in the county school bus garage. Reimbursement to the State Public School

Fund shall be made for all maintenance cost including labor, gasoline and oil, repair parts, tires and tubes, antifreeze, etc. Labor cost reimbursements and local funds may be used to employ additional mechanics so as to insure that all activity buses owned and operated by county and city boards of education are maintained in a safe mechanical condition. The State Board of Education shall inspect each activity bus and recommend to the Board whether the bus should be replaced, but replacements will be determined by the County or City Board of Education. Such replacement units for activity buses shall be financed with local funds."

Sec. 2. G.S. 115-187(d), as the same appears in Volume 3A, 1966 Replacement of the General Statutes, is amended by deleting in line 18 the words "or local tax".

Sec. 3. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 21st day of April, 1975.

H. B. 363 CHAPTER 151

AN ACT TO FURTHER AMEND CHAPTER 1293 OF THE 1973 SESSION LAWS (2ND SESSION, 1974) TO PROVIDE FOR THE ASSIGNMENT OF SURROGATE PARENTS FOR PURPOSES OF RIGHT OF APPEAL.

Whereas, Public Law 93-380 (The Education Amendments of 1974) requires the State to protect the rights of a child when the parents or guardians are not known, unavailable, or the child is a ward of the State including the assignment of an individual to act as a surrogate for the parent or guardian; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Delete all of the first paragraph of Section 10 and rewrite as follows:

"Sec. 10. Right of Appeal. A child, his parent, his guardian, or his surrogate parent (in the case of a child whose parent or guardian is unknown or unavailable or in the case of a child who is a ward of the State) may obtain review as herein provided of an action or omission by State or local authorities on the ground that the child has been or is about to be:"

Sec. 2. Insert a new paragraph after Section 10 (1) (c) to read as follows:

"(2) A surrogate parent may not be an employee of the State or any local government educational or human resources agency responsible for or involved in the education or care of the child. In the case of an appeal from action or omission by the State or local government education agency the surrogate parent shall be appointed from a group of people selected by the Superintendent of Public Instruction, and in the case of an appeal from an action or omission by the State or a local government human resources agency from a group of people selected by the Secretary of the Department of Human Resources. Both the Superintendent and the Secretary shall upon ratification of this act establish procedures, pursuant to their powers under Section 10 (6) of this act, to ensure that every child in need of a surrogate parent is provided with one. The surrogate parent shall represent the child in the appeal and subsequent proceedings arising therefrom."

Sec. 3. Renumber old Section 10 (2) to (3) and each subsequent number thereafter.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of April, 1975.

H. B. 428 CHAPTER 152

AN ACT TO BRING THE CITY OF CONCORD PUBLIC LIBRARY SYSTEM UNDER THE PROVISIONS OF ARTICLE 14, CHAPTER 153A OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. The public library system of the City of Concord shall hereafter operate under the provisions of Article 14, Chapter 153A of the General Statutes of North Carolina.

Sec. 2. Any personal property owned and utilized by the preexisting City of Concord Library Corporation prior to and on the effective date hereof shall become the property and sole ownership of the City of Concord.

Sec. 3. Chapter 492 of the Private Laws of 1913, Chapter 52 of the Private Laws of 1921, and Chapter 528 of the Session Laws of 1959, are hereby repealed, and the corporate entity created thereby is hereby dissolved.

Sec. 4. All other laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 5. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 21st day of April, 1975.

H. B. 454 CHAPTER 153

AN ACT TO REPEAL CHAPTER 268 OF THE 1973 SESSION LAWS AUTHORIZING A BURKE COUNTY POLICE DEPARTMENT.

The General Assembly of North Carolina enacts:

Section 1. Chapter 268 of the 1973 Session Laws is hereby repealed.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of April, 1975.

S. B. 430 CHAPTER 154

AN ACT TO AMEND G.S. 116A-9 AND G.S. 116A-10 PERTAINING TO THE ESCHEAT FUND AND VESTING ADDITIONAL POWERS IN THE STATE EDUCATION ASSISTANCE AUTHORITY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 116A-9 is amended by adding at the end thereof a provision reading as follows:

"Such loans shall be made upon terms, consistent with the provisions of this section, pursuant to which the State Education Assistance Authority makes loans to other students under G.S. 116-201 to 116-209.23, Article 23."

Sec. 2. G.S. 116A-10 is rewritten to read as follows:

"§ 116A-10. Subject to the State Treasurer's holding, as custodian, such portion of the escheat fund as he determines may be subject to refund pursuant to G.S. 116A-11 of this Chapter, the entire corpus of the escheat fund, including

all future additions thereto, other than said income, is transferred to become, and is made and shall be, a part of the trust fund created under G.S. 116-209 of Article 23; provided that the escheat fund in said trust fund shall be accounted for and administered separately from other assets and money in such trust fund. The State Treasurer shall be the trustee of the escheat fund in the trust fund and shall have full power to invest and reinvest moneys in the escheat fund and to distribute the income derived therefrom to the State Education Assistance Authority as provided in the foregoing G.S. 116A-9.

The authority, in addition to other powers vested under G.S. 116-201 to G.S. 116-209.23 of Article 23, is authorized to pledge and vest a security interest in all or any part of any such escheat fund in said trust fund, by resolution adopted or trust agreement approved by it, as security for or insurance respecting the payment of bonds or other obligations, including principal, interest and redemption premium, if any, under such Article 23; provided such pledge and security interest in the escheat fund shall, in the determination of the authority, constitute a use of the escheat fund to aid worthy and needy students who are residents of this State and are enrolled in public institutions of higher education in this State. Pursuant to any such pledge of and security interest in the escheat fund, or any part thereof, the State Education Assistance Authority may submit, from time to time as it deems necessary, to the State Treasurer requisitions for transfers of money in the escheat fund, and the State Treasurer is authorized and directed to pay such money so requisitioned to the authority for the purpose of enabling the authority to pay any bonds or other obligations, including principal, interest and redemption premium, if any, of the authority, pursuant to any such pledge of or security interest in the escheat fund, or any part thereof, under any such resolution or trust agreement."

Sec. 3. Insofar as the provisions of this act are inconsistent with the provisions of any other law, the provisions of this act shall be controlling.

Sec. 4. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 21st day of April, 1975.

S. B. 437 CHAPTER 155

AN ACT TO PROVIDE FOR THE APPOINTMENT OF A SPECIAL BOARD OF EQUALIZATION AND REVIEW BY THE BOARD OF COUNTY COMMISSIONERS OF HENDERSON COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The Board of County Commissioners of Henderson County shall appoint each year a special board of equalization and review to be known as the Henderson County Board of Equalization and Review. The Henderson County Board of Equalization and Review is to be composed of five members. To be eligible for appointment to such board a person must have resided in Henderson County for a period of at least one year immediately preceding his appointment, and must have had such experience in the appraisal and valuation of real and personal property as is satisfactory to the board of county commissioners. Any vacancy on the board of equalization and review shall be filled by the board of county commissioners, and all appointments to the board of equalization and review shall terminate upon final adjournment of the board for the year for which they are appointed.

Sec. 2. After a special Henderson County Board of Equalization and Review is appointed in any calendar year and takes the oath of office, it shall carry out all duties granted to the board of equalization and review as described in Subchapter II of Chapter 105 of the General Statutes. Provided, after the special board of equalization and review completes its duties and adjourns for the year, the board of county commissioners shall be vested with all powers and duties granted to it under Subchapter II of Chapter 105 of the General Statutes of North Carolina.

Sec. 3. All members of the special board of equalization and review shall receive for their services such compensation as may be fixed by the board of county commissioners. The board of county commissioners is authorized to provide such clerical or other assistants as they may deem advisable.

Sec. 4. The members of the special board of equalization and review shall take and subscribe to the same oath as provided for in G.S. 105-322 before entering upon their duties.

Sec. 5. The time of meeting, notice of meeting and powers and duties of the special board of equalization and review shall be the same as those provided for in G.S. 105-322.

Sec. 6. This act shall apply to Henderson County only.

Sec. 7. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of April, 1975.

S. B. 451 **CHAPTER 156**

AN ACT TO PERMIT CITIES TO INCORPORATE EXISTING LOCAL ACTS INTO THEIR CHARTERS, IN ORDER TO MAKE THOSE CHARTERS CURRENT, ACCURATE, AND COMPREHENSIVE.

The General Assembly of North Carolina enacts:

Section 1. G.S. Chapter 160A is amended by adding thereto a new section to read as follows:

"*Incorporation of local acts into charter.*—(a) A city may from time to time require the city attorney to present to the council any local acts relating to the property, affairs, and government of the city and not part of the city's charter which the city attorney recommends be incorporated into the charter. In his recommendations, the city attorney may include suggestions for renumbering or rearranging the provisions of the charter and other local acts, for providing catch lines, and for any other modifications in arrangement or form that do not change the provisions themselves of the charter or local acts and that may be necessary to effect an orderly incorporation of local acts into the charter.

(b) After considering the recommendations of the attorney, the council may by ordinance direct the incorporation of any such local acts into the charter.

(c) For purposes of this section, 'charter' means that local act of the General Assembly or action of the Municipal Board of Control incorporating a city or a later local act that includes provisions expressly denominated the city's 'charter', plus any other local acts inserted therein pursuant to this section or a comparable provision of a local act."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of April, 1975.

H. B. 439 **CHAPTER 157**

AN ACT TO PROVIDE FOR THE NOMINATION AND ELECTION OF THE BOARD OF EDUCATION OF TRANSYLVANIA COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The Board of Education of Transylvania County shall consist of five members who shall be nominated and elected in a partisan primary and election as herein provided. The primary and election shall be held and conducted in accordance with the general laws governing primaries and elections for county officers, except as otherwise provided herein.

As the terms of the present members expire, beginning with the primary and election to be held in 1976, and every two years thereafter, members of the Board of Education shall be elected for terms of four years.

Sec. 2. Those persons elected to the Board of Education shall qualify by taking the oath of office on or before the first Monday in December after their election, and their term shall begin on such date, and they shall serve until their successor has been elected and qualified.

Sec. 3. Vacancies in the membership of the Board of Education occurring for any reason shall be filled immediately by the County Executive Committee of the political party to which the vacating member belonged. The person appointed to fill the vacancy shall serve until the next election for members of the Board of Education at which time a person shall be elected to fill the unexpired term. However, if a vacancy occurs in the last twenty-six months of a member's term, the appointment shall be for the unexpired term. If a vacancy which is to be filled only to the next election occurs after the closing of the filing period for the primary next preceding that election, and no one has filed for the seat, the County Executive Committee of each political party shall name that party's nominee for the seat, and that nominee's name shall be printed on the general election ballot.

Sec. 4. It is the intent of this act that the terms of the present members of the Board of Education shall not be reduced, but as their terms expire, their successors shall be elected for terms of four years.

Sec. 5. Chapter 743, Session Laws of 1951; Chapter 726, Session Laws of 1953; Chapter 1021, Session Laws of 1967; and Chapter 913, Session Laws of 1973, are repealed; this act shall also apply to Clay County and all local acts for Clay County in conflict with this act are hereby repealed.

Sec. 6. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of April, 1975.

H. B. 279

CHAPTER 158

AN ACT TO AMEND G.S. 126-16 TO PROVIDE EQUAL EMPLOYMENT OPPORTUNITY BY STATE DEPARTMENTS AND AGENCIES AND LOCAL POLITICAL SUBDIVISIONS WITHOUT REGARD TO AGE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 126-16 as the same appears in Volume 3B of the General Statutes is amended on line 4 by inserting the words "or age" after the word and punctuation "sex," and before the word "to" and by deleting the word "or" between the words "origin" and "sex" and inserting in lieu thereof a comma (","). This act with respect to equal opportunity as to age shall apply only to those persons above the age of 40 years and under the age of 65 years.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of April, 1975.

H. B. 287

CHAPTER 159

AN ACT TO AMEND CHAPTER 163 OF THE GENERAL STATUTES RELATING TO THE APPOINTMENT OF ELECTIONS OFFICIALS.

The General Assembly of North Carolina enacts:

Section 1. Article 4 of Chapter 163 is amended by rewriting G.S. 163-30, as it appears in the 1974 Cumulative Supplement to Volume 3D of the General Statutes, to read as follows:

"§ 163-30. *County boards of elections; appointments; terms of office; qualifications; vacancies, oath of office; instructional meetings.*—In every county of the State there shall be a county board of elections to consist of three persons of good moral character, who are registered voters in the county in which they are to act. Members of county boards of elections shall be appointed by the State Board of Elections on the Tuesday following the first Monday in June, 1975, and every two years thereafter, and their terms of office shall continue for two years from the specified date of appointment and until their successors are appointed and qualified. Not more than two members of the county board of elections shall belong to the same political party.

No person shall serve as a member of the county or State board of elections who holds any elective public office or who is a candidate for any office in the primary or election.

No person, while acting as a member of a county board of elections, shall serve as a State, district or county campaign manager or treasurer of any candidate in a primary or election or as a chairman of any State, district or county political organization.

The State chairman of each political party shall have the right to recommend to the State Board of Elections three registered voters in each county for appointment to the board of elections for that county. If such recommendations are received by the Board 15 or more days before the Tuesday following the first Monday in June, 1975, and each two years thereafter, it shall be the duty of the State Board of Elections to appoint the county boards from the names thus recommended.

Whenever a vacancy occurs in the membership of a county board of elections for any cause the State chairman of the political party of the vacating member

shall have the right to recommend two registered voters of the affected county for such office, and it shall be the duty of the State Board of Elections to fill the vacancy from the names thus recommended.

At the meeting of the county board of elections required by G.S. 163-31 to be held on Tuesday following the third Monday in June in the year of their appointment the members shall take the following oath of office:

'I, _____, do solemnly swear (or affirm) that I will support the Constitution of the United States; that I will be faithful and bear true allegiance to the State of North Carolina and to the constitutional powers and authorities which are or may be established for the government thereof; that I will endeavor to support, maintain and defend the Constitution of said State, not inconsistent with the Constitution of the United States; and that I will well and truly execute the duties of the office of member of the _____ County Board of Elections to the best of my knowledge and ability, according to law; so help me, God.'

Each member of the county board of elections shall attend each instructional meeting held pursuant to G.S. 163-46, unless excused for good cause by the chairman of the board, and shall be paid the sum of twenty-five dollars ($25.00) per day for attending each of those meetings."

Sec. 2. G.S. 163-31, as it appears in Volume 3D of the General Statutes, is rewritten to read as follows:

"§ 163-31. *Meetings of county boards of elections; quorum; minutes.*—In each county of the State the members of the county board of elections shall meet at the courthouse or board office at noon on the Tuesday following the third Monday in June in the year of their appointment by the State Board of Elections and, after taking the oath of office provided in G.S. 163-30, they shall organize by electing one member chairman and another member secretary of the county board of elections. On the Tuesday following the first Monday in August of the year in which they are appointed the county board of elections shall meet and appoint precinct registrars and judges of elections. The board may hold other meetings at such times as the chairman of the board, or any two members thereof, may direct, for the performance of duties prescribed by law. A majority of the members shall constitute a quorum for the transaction of board business. The chairman shall notify, or cause to be notified, all members regarding every meeting to be held by the board.

The county board of elections shall keep minutes recording all proceedings and findings at each of its meetings. The minutes shall be recorded in a book which shall be kept in the board office and it shall be the responsibility of the secretary, elected by the board, to keep the required minute book current and accurate. The secretary of the board may designate the executive secretary to record and maintain the minutes under his supervision."

Sec. 3. G.S. 163-41(a) as it appears in the 1974 Cumulative Supplement to Volume 3D of the General Statutes, is amended by rewriting the first paragraph thereof to read as follows:

"§ 163-41. *Precinct registrars and judges of election; special registration commissioners; appointment; terms of office; qualifications; vacancies; oaths of office.*—(a) Appointment of Registrar and Judges. At the meeting required by G.S. 163-31 to be held on the Tuesday following the first Monday in August of the year in which they are appointed, the county board of elections shall appoint one person to act as registrar and two other persons to act as judges of election

for each precinct in the county. Their terms of office shall continue for two years from the specified date of appointment and until their successors are appointed and qualified. It shall be their duty to conduct the primaries and elections within their respective precincts. Persons appointed to these offices must be registered voters and residents of the precinct for which appointed, of good repute, and able to read and write. Not more than one judge in each precinct shall belong to the same political party as the registrar, provided, however, that in a primary election in which only one political party participates only the judge and assistants, appointed pursuant to G.S. 163-42, of the political party participating in said primary, shall serve, along with the registrar, for that particular primary. For purposes of this section, the second primary provided for in G.S. 163-111 shall be considered part of the first primary and not a separate primary election."

Sec. 4. G.S. 163-41(b), as it appears in the 1974 Cumulative Supplement to Volume 3D of the General Statutes, is rewritten to read as follows:

"(b) Appointment of Special Registration Commissioners. In counties which adopt full-time and permanent registration the county board of elections may, in its discretion, in addition to registrars, select persons of good repute to act as special registration commissioners. Persons appointed as special registration commissioners shall be appointed at the same time as required by G.S. 163-41 for the appointment of registrars and shall serve for two years, but the county board of elections may terminate their authority at any time without cause.

In counties authorized to appoint special registration commissioners the chairman of each political party shall have the right to recommend registered voters who are residents of the county for appointment as special registration commissioners. If such recommendations are received by the county board of elections at least five (5) days prior to the date on which such appointments must be made the county board should make appointments from the names thus recommended, although it shall not be required to do so.

Before entering upon his duties each special registration commissioner shall take and subscribe the following oath of office to be administered by an officer authorized to administer oaths and file it with the county board of elections:

'I, _____, do solemnly swear (or affirm) that I will support the Constitution of the United State; that I will be faithful and bear true allegiance to the State of North Carolina, and to the constitutional powers and authorities which are or may be established for the government thereof; that I will endeavor to support, maintain and defend the Constitution of said State, not inconsistent with the Constitution of the United States; that I will administer the duties of my office as special registration commissioner for _____ County without fear or favor, to the best of my knowledge and ability, according to law; so help me, God.'"

Sec. 5. The terms of office for all members of county boards of elections, serving at the time of ratification of this act, shall expire on June 17, 1975, at 12 o'clock noon.

Sec. 6. The terms of office for all precinct election officials, serving at the time of ratification of this act, shall expire at 12 o'clock noon on August 5, 1975.

Sec. 7. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of April, 1975.

H. B. 452 CHAPTER 160

AN ACT TO AMEND G.S. 165-20, G.S. 165-22, AND G.S. 165-22.1 AS THEY RELATE TO SCHOLARSHIPS PROVIDED FOR CHILDREN OF WAR VETERANS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 165-20(3)a. as the same presently appears in the 1974 Cumulative Supplement to the 1972 Replacement Volume 3D of the General Statutes is hereby amended to read:

"a. A person whose veteran parent was a legal resident of North Carolina at the time of said veteran's entrance into that period of service in the armed forces during which eligibility is established under G.S. 165-22."

Sec. 2. G.S. 165-22(3)c. as the same presently appears in the 1972 Replacement Volume 3D of the General Statutes is hereby repealed.

Sec. 3. G.S. 165-22.1(d) as the same presently appears in the 1974 Cumulative Supplement to the 1972 Replacement Volume 3D of the General Statutes is hereby amended to delete "and III" which appears on line 5 and insert in lieu thereof "III and IV".

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of April, 1975.

H. B. 467 CHAPTER 161

AN ACT TO AUTHORIZE BEQUESTS AND DEVISES TO EXISTING TESTAMENTARY TRUSTS.

The General Assembly of North Carolina enacts:

Section 1. Article 8 of Chapter 31 as the same appears in 1966 Replacement Volume 2A is hereby amended by rewriting the first sentence of G.S. 31-47 to read as follows:

"§ 31-47. *Devise or bequest to trustee of an existing trust.*—A devise or bequest in a will duly executed pursuant to the provisions of this Chapter may be made in form or substance to the trustee of any trust, including an existing testamentary trust, if established in writing prior to the execution of such will."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of April, 1975.

S. B. 114 CHAPTER 162

AN ACT TO AMEND G.S. 20-7(f) SO AS TO REWARD SAFE DRIVERS BY ELIMINATING THE REQUIREMENT FOR TAKING WRITTEN AND ROAD TESTS WHEN APPLYING FOR RENEWAL OF CHAUFFEUR'S LICENSE.

The General Assembly of North Carolina enacts:

Section 1. A new paragraph is added to subsection (g) of G.S. 20-7, to read as follows:

"Provided further, that no person who applies for the renewal of his chauffeur's license shall be required to take a written examination or road test as a part of any such examination unless such person has been convicted of a

traffic violation or had prayer for judgment continued with respect to any traffic violation within a four-year period immediately preceding the date of such person's renewal application or unless such person suffers from a mental or physical condition which impairs his ability to operate a motor vehicle."

Sec. 2. The Department of Motor Vehicles shall monitor the occurrence of traffic violations within the State and submit yearly reports to the General Assembly. The effect of this act on the violation statistics of North Carolina drivers as of January 1, 1976, and each year thereafter shall be included in the yearly report to allow the objective evaluation of this act and its effect on North Carolina drivers.

Sec. 3. This act shall become effective May 1, 1975 and shall expire on June 1, 1977.

In the General Assembly read three times and ratified, this the 23rd day of April, 1975.

S. B. 303 CHAPTER 163

AN ACT TO AMEND G.S. 14-71 AND G.S. 14-72(c) TO ENLARGE THE DEFINITION OF RECEIVING STOLEN GOODS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-71 is hereby amended by adding "or having reasonable grounds to believe" after the word "knowing" on line 4 as the same appears in the 1969 Replacement Volume 1B of the General Statutes of North Carolina.

Sec. 2. G.S. 14-72(c) is hereby amended by adding "or having reasonable grounds to believe" after the word "knowing" on line 1 as the same appears in the 1969 Replacement Volume 1B of the General Statutes of North Carolina.

Sec. 3. This act shall become effective on October 1, 1975.

In the General Assembly read three times and ratified, this the 23rd day of April, 1975.

S. B. 316 CHAPTER 164

AN ACT TO AMEND THE WORKMEN'S COMPENSATION ACT REGARDING COMPENSATION FOR THUMB AND FINGERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 97-31 is hereby amended as follows:

(a) G.S. 97-31(1) is hereby amended by striking out "sixty-five" as the same appears in line 2 of such subsection and by substituting in lieu thereof "seventy-five".

(b) G.S. 97-31(2) is hereby amended by striking out "forty" as the same appears in line 3 of such subsection and by substituting in lieu thereof "forty-five".

(c) G.S. 97-31(3) is hereby amended by striking out "thirty-five" as the same appears in line 2 of such subsection and by substituting in lieu thereof "forty".

(d) G.S. 97-31(4) is hereby amended by striking out "twenty-two" as the same appears in line 2 of such subsection and by substituting in lieu thereof "twenty-five".

(e) G.S. 97-31(5) is hereby amended by striking out "sixteen" as the same appears in line 3 of such subsection and by substituting in lieu thereof "twenty".

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon ratification and shall only apply to accidents occurring on or after date of ratification.

In the General Assembly read three times and ratified, this the 23rd day of April, 1975.

H. B. 217 CHAPTER 165

AN ACT TO PROVIDE FOR THE NOMINATION AND ELECTION OF MEMBERS OF THE ROWAN COUNTY BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. The Rowan County Board of Education shall consist of five members who shall serve for terms of four years each, and, for purposes of electing members of said Board, Rowan County is divided into five districts bounded and described as follows:

"District No. 1 - North Rowan High School attendance zone.

District No. 2 - South Rowan High School attendance zone.

District No. 3 - East Rowan High School attendance zone.

District No. 4 - West Rowan High School attendance zone.

District No. 5 - Rowan County (the at-large position)."

Sec. 2. In the primary election to be held in Rowan County in 1976, there shall be elected three members of the Rowan County Board of Education. One of said members shall be a resident of District No. 1, the North Rowan High School attendance zone, one shall be a resident of District No. 2, the South Rowan High School attendance zone, and one shall be a resident of District No. 4, the West Rowan High School attendance zone. The candidate from District No. 1, the candidate from District No. 2, and the candidate from District No. 4 receiving the highest number of votes in the 1976 primary election shall be elected for a term of four years. In the primary election to be held in Rowan County in 1978, there shall be elected two members of the Rowan County Board of Education. One of said members shall be a resident of District No. 3, the East Rowan High School attendance zone, and the other shall be from District No. 5, designated as the at-large position on the Board. The candidate from District No. 3 and the candidate from District No. 5 receiving the highest number of votes in the 1978 primary election shall be elected for a term of four years. Biennially thereafter, as the vacancies occur, individuals elected to fill those vacancies shall hold office for a term of four years.

Sec. 3. The members representing the various districts on the Rowan County Board of Education shall be residents of said districts, except for that member filing for District No. 5, the at-large position on the Board who need only be a resident of Rowan County, and shall file with the County Board of Elections of Rowan County a notice of candidacy which shall give the candidates' name, address, place of residence and a statement that he desires to be a candidate for membership on the said Rowan County Board of Education for the district in which he resides, or the at-large position on the Board. The election of said members of said Board shall be in the primaries heretofore set forth and shall be by non-partisan election. The Board of Elections of Rowan

County shall prepare a separate ballot for the election of said members which shall, among other things, contain the name of the candidate, the school district that he desires to represent, including the at-large position, and shall not contain any reference to party affiliation in any manner or form. The said candidates for membership on the Rowan County Board of Education shall be voted on at-large by the eligible voters of Rowan County, and the Board of Elections of Rowan County shall canvass and judicially determine the results of said election and declare the members so elected. It is the intent and purpose of this act that said members of the Rowan County Board of Education shall be elected in said primary or primaries and there shall be no further election in the general election. All persons so elected shall serve until their successors are elected and qualified, and any vacancy occurring on the Rowan County Board of Education by death, resignation or otherwise shall be filled by the remaining members of the Rowan County Board of Education for the unexpired term, but the person appointed to fill such vacancy where the vacancy occurs in Districts 1, 2, 3 and 4, must be from the same district as the person whose death, resignation or removal created the vacancy on the Board. Where the vacancy is created from District No. 5, the at-large position, the only requisite is that the individual appointed to fill that vacancy be a resident of Rowan County.

Sec. 4. The election of said members of the Rowan County Board of Education in the various primary elections as hereinabove provided shall be governed by Chapter 163 of the General Statutes, relating to primaries and elections, insofar as the same be applicable and not in conflict with the expressed terms of this act. The Rowan County Board of Elections is hereby authorized and empowered to create any necessary precincts, to appoint any necessary election officials and to set up and establish all necessary books and records for conduct of said elections.

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of April, 1975.

H. B. 323 CHAPTER 166

AN ACT TO MAKE TECHNICAL CORRECTIONS AND AMENDMENTS TO THE PRETRIAL CRIMINAL PROCEDURE ACT.

The General Assembly of North Carolina enacts:

Section 1. Chapter 15A of the General Statutes as the same appears in Pamphlet 6 of the 1974 Advance Legislative Service to the General Statutes is hereby amended as set out in the subsequent sections of this act.

Sec. 2. G.S. 15A-101 is hereby amended by rewriting subdivisions (2), (4) and (7) to read as follows:

"(2) Clerk.—Any clerk of superior court, acting clerk, or assistant or deputy clerk.

(4) District Attorney.—The person elected and currently serving as district attorney in his prosecutorial district.

(7) Prosecutor.—The district attorney, any assistant district attorney or any other attorney designated by the district attorney to act for the State or on behalf of the district attorney."

Sec. 3. G.S. 15A-302(f) is hereby amended and rewritten to read as follows:

"(f) Citation No Bar to Criminal Summons or Warrant.—A criminal summons or a warrant may issue notwithstanding the prior issuance of a citation for the same offense."

Sec. 4. G.S. 15A-303(e) is hereby amended by striking out subdivision (4) thereof.

Sec. 5. G.S. 15A-303(f) is hereby amended by adding after the word "summons" and before the word "may" the words ", valid throughout the State.".

Sec. 6. G.S. 15A-305 is hereby amended by adding thereto a subsection "(d)" to read as follows:

"(d) Who May Issue.—An order for arrest, valid throughout the State, may be issued by any person authorized to issue warrants for arrest."

Sec. 7. G.S. 15A-501(1) is hereby amended by striking the period and adding at the end of the first sentence the words "or the cause for his arrest".

Sec. 8. G.S. 15A-501(2) is hereby amended by striking out in the third line thereof the words "order of arrest" and inserting in lieu thereof "order for arrest".

Sec. 9. G.S. 15A-511(a)(2) is amended by inserting in the second sentence, after the word "prepare" and before the word "a" the words "a magistrate's order containing".

Sec. 10. G.S. 15A-511(b)(3) is hereby amended by striking out the words "pretrial release" and inserting in lieu thereof the words "release under the provisions of Article 26, Bail".

Sec. 11. G.S. 15A-511(c) is hereby amended in the second line thereof by inserting after the word "arrested" and before the word "without" the words ", for a crime".

Sec. 12. G.S. 15A-531(1) is hereby amended by striking from the fourth line thereof the words "a premium secured appearance bond,".

Sec. 13. G.S. 15A-534(e) is hereby amended by striking out in the second and third lines thereof the word "initial" and inserting the word "first".

Sec. 14. G.S. 15A-612(a)(2) is hereby amended by striking out of the fifth line thereof the words "warrant or information" and inserting in lieu thereof the word "pleading".

Sec. 15. G.S. 15A-801 and G.S. 15A-802 are hereby amended by striking out the letters and numbers "G.S. 1-1A" in the last sentence of each and inserting in lieu thereof "G.S. 1A-1".

Sec. 16. G.S. 15A-907 is hereby amended by striking out of the sixth line thereof the words "or the name of each additional witness".

Sec. 17. G.S. 15A-910 is hereby amended by striking out all of subsections (b) and (c) and by striking out of the first line of the section the letter and punctuation, "(a)".

Sec. 18. G.S. 15A-921(4) is hereby amended by striking out the letters and numbers, "G.S. 15A-511(c)" and inserting in lieu thereof, "G.S. 15A-511."

Sec. 19. G.S. 15A-926(a) is hereby amended by inserting in the first sentence after the word "pleading," the words "or for trial".

Sec. 20. Article 56 of Chapter 15A is hereby amended to harmonize its provisions with the provisions of G.S. Chapter 122, Article 5A, as follows:

(a) G.S. 15A-1002(b)(2)a is hereby amended in line 2 thereby deleting the words "judicial hospitalization", and inserting in lieu thereof the words "involuntary civil commitment under Chapter 122 of the General Statutes".

(b) G.S. 15A-1003 is hereby amended by rewriting subsection (a) to read as follows:

"(a) If a defendant is found to be incapable of proceeding, the court must enter an order directing the initiation of proceedings for involuntary civil commitment, and the court's order is authority for a magistrate or clerk to order a law enforcement officer to take the defendant into custody for examination by a qualified physician under G.S. 122-58.3(b), or for processing as an emergency case under G.S. 122-58.18."

(c) G.S. 15A-1003(c) is hereby amended by striking out the words "judicial hospitalization proceedings" and inserting in lieu thereof the words "involuntary civil commitment proceedings".

(d) G.S. 15A-1004 is hereby amended by deleting the words "judicial hospitalization" in line 2 of subsection (b), in line 2 of subsection (c), in line 2 of subsection (d), and inserting in lieu thereof in each sentence the words, "involuntary civil commitment".

(e) G.S. 15A-1004(d) is hereby amended in line 5 thereof by deleting the word "annually" and inserting in lieu thereof the words "at the same times that reports on the condition of the defendant-respondent are required under Chapter 122 of the General Statutes, Article 5A (Involuntary Commitment)".

Sec. 21. G.S. 15A-1027 is hereby amended by striking out of the third line thereof the word "required".

Sec. 22. G.S. 7A-109.1 is hereby amended in the catchline thereof by striking out the words "jailed defendants" and inserting in lieu thereof the word "prisoners".

Sec. 23. G.S. 7A-180(6) is hereby amended and rewritten to read as follows:

"(6) Has the power to conduct an initial appearance in accordance with Chapter 15A, Article 24, Initial Appearance, and to fix conditions of release in accordance with Chapter 15A, Article 26, Bail; and".

Sec. 24. G.S. 7A-181(3) is hereby amended and rewritten to read as follows:

"(3) Have the same power as the Clerk of Superior Court to fix conditions of release in accordance with Chapter 15A, Article 26, Bail, and the same power as the Clerk of Superior Court to conduct an initial appearance in accordance with Chapter 15A, Article 24, Initial Appearance."

Sec. 25. Section 26 of Chapter 1286 of the 1973 Session Laws is hereby amended by striking out the numbers "15-159", "15-126", and "15-129".

Sec. 26. The following sections of the General Statutes are hereby repealed: G.S. 162-31, G.S. 15-49, G.S. 15-103.2, G.S. 15-104.1, and G.S. 15-107.1.

Sec. 27. Chapter 15A of the General Statutes is hereby amended by striking out the words "District Solicitor" wherever the words appear throughout Chapter 15A, and inserting in lieu thereof the words "District Attorney", and by striking out the word "Solicitor", wherever the word appears throughout Chapter 15A and inserting in lieu thereof the word "Prosecutor". The Michie Company, publishers of the General Statutes of North Carolina, is authorized and directed to make the changes directed above wherever they might appear appropriate in the text of Chapter 15A of the General Statutes.

Sec. 28. This act shall become effective on the date that Chapter 1286 of the 1973 Session Laws becomes effective.

In the General Assembly read three times and ratified, this the 23rd day of April, 1975.

H. B. 408 CHAPTER 167

AN ACT TO AMEND G.S. 165-22 AS IT RELATES TO A CATEGORY OF ELIGIBILITY TO BE CONSIDERED FOR SCHOLARSHIPS PROVIDED FOR CHILDREN OF WAR VETERANS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 165-22(5) as the same appears in the 1974 Cumulative Supplement to the 1972 Replacement Volume 3D of the General Statutes is hereby amended by deleting the words "for a total of more than 90 days" appearing on line 5 thereof so as to abolish time limitations for the Class IV category of eligibility.

Sec. 2. This act shall become effective upon ratification and shall apply to applications submitted on or after January 1, 1975.

In the General Assembly read three times and ratified, this the 23rd day of April, 1975.

H. B. 619 CHAPTER 168

AN ACT APPOINTING THE MEMBERS OF THE BOARD OF EDUCATION OF WHITEVILLE CITY SCHOOL ADMINISTRATIVE UNIT.

The General Assembly of North Carolina enacts:

Section 1. Chapter 298 of the 1973 Session Laws is hereby repealed.

Sec. 2. Billy Hooks, Harry "Bobby" Jordan, J. B. Davis, E. L. White, Dr. W. C. Burns, Bill Friedman, Lewis S. Cokley, Catherine Powell Lee, and Dewey Hill, Sr. are hereby appointed members of the Board of Education of the Whiteville City School administrative unit.

Sec. 3. The above-named members shall begin their terms of office on the first Monday in May, 1975, and the terms of office of the above-named members shall continue for a term of two years thereafter and until their successors shall be duly appointed and qualified.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of April, 1975.

H. B. 650 CHAPTER 169

AN ACT TO AUTHORIZE THE BOARD OF TRANSPORTATION TO PERMIT ENCROACHMENT OF AIRSPACE ABOVE BILTMORE AVENUE IN THE CITY OF ASHEVILLE FOR CONSTRUCTION OF THE MOUNTAIN AREA HEALTH EDUCATION CENTER.

The General Assembly of North Carolina enacts:

Section 1. For construction of the facilities of the Mountain Area Health Education Center the Board of Transportation is hereby authorized and empowered to permit private use of and encroachment upon the airspace above Biltmore Avenue located inside the corporate limits of the City of Asheville for the purpose of construction and maintenance of bridges, elevated buildings or

other overhead structures between buildings on opposite sides of Biltmore Avenue; provided, in the opinion of the Board of Transportation such bridge, elevated building or other overhead structure will not unreasonably interfere with or impair the property rights and easements of abutting owners nor unreasonably interfere with or obstruct the public use of Biltmore Avenue.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of April, 1975.

S. B. 93 CHAPTER 170

AN ACT TO AMEND G.S. 148-45 CONCERNING IMPOSITION OF SENTENCES UPON CONVICTION OF INMATES FOR ESCAPE VIOLATIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 148-45(e) is amended to read as follows:

"(e) Unless otherwise specifically ordered by the presiding judge, any term of imprisonment imposed hereunder shall run concurrently with all former sentences remaining to be served."

Sec. 2. This act shall be in full force and effect from and after ratification.

In the General Assembly read three times and ratified, this the 24th day of April, 1975.

S. B. 256 CHAPTER 171

AN ACT TO AMEND G.S. 113-95.4 TO PROVIDE KILL REPORTS FOR MALE DEER AND WILD BOAR.

The General Assembly of North Carolina enacts:

Section 1. Section 113-95.4 of the General Statutes of North Carolina is hereby amended by rewriting the first sentence thereof to read as follows:

"Any person killing a bear, wild turkey, deer or wild boar shall make a report of such kill to the Wildlife Resources Commission."

Sec. 2. This act shall become effective on January 1, 1976.

In the General Assembly read three times and ratified, this the 24th day of April, 1975.

H. B. 464 CHAPTER 172

AN ACT TO REPEAL THE FAIR TRADE LAWS.

The General Assembly of North Carolina enacts:

Section 1. Article 10 of Chapter 66 of the General Statutes, known and cited as the "Fair Trade Act", is hereby repealed.

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 24th day of April, 1975.

H. B. 595 **CHAPTER 173**

AN ACT AMENDING CHAPTER 1073 OF THE SESSION LAWS OF 1959, RELATING TO THE ISSUANCE OF PISTOL PERMITS, SO AS TO MAKE THE SAME APPLICABLE TO CERTAIN COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. Section 4 of Chapter 1073 of the Session Laws of 1959 is amended by striking the words "Halifax" and "Jackson" in line 3 thereof, and by striking the word "Stokes" in line 5 thereof, and by striking the word "Franklin" in line 2 thereof, and by striking the word "Macon" in line 4 thereof.

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of April, 1975.

S. B. 26 **CHAPTER 174**

AN ACT TO AMEND G.S. 128-1.1 TO DEFINE THE TERM "ELECTIVE OFFICE".

The General Assembly of North Carolina enacts:

Section 1. G.S. 128-1.1 is amended by adding a new subsection (d) to read as follows:

"(d) The term 'elective office', as used herein, shall mean any office filled by election by the people when the election is conducted by a county or municipal board of elections under the supervision of the State Board of Elections."

Sec. 2. This act shall become effective January 1, 1976.

In the General Assembly read three times and ratified, this the 28th day of April, 1975.

H. B. 601 **CHAPTER 175**

AN ACT REQUIRING THE PAYMENT OF DELINQUENT TAXES IN WATAUGA AND STOKES COUNTY BEFORE RECORDING DEEDS CONVEYING PROPERTY SUBJECT TO DELINQUENT TAXES.

The General Assembly of North Carolina enacts:

Section 1. On and after July 1, 1975, the Register of Deeds of Watauga and Stokes County shall not receive for recordation any deed unless the same is accompanied by a certificate from the Watauga and Stokes County Tax Collector to the effect that all delinquent taxes upon the property described in the deed offered for recordation have been paid.

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 28th day of April, 1975.

S. B. 409 **CHAPTER 176**

AN ACT TO PERMIT CERTAIN RETIREMENT SERVICE CREDITS FOR SOLICITORS OF THE RECORDER'S COURTS OF ROBESON COUNTY PRIOR TO SUCH TIME THEY WERE ASSIMILATED BY THE ADMINISTRATIVE OFFICE OF THE COURTS.

The General Assembly of North Carolina enacts:

Section 1. If the Board of County Commissioners of Robeson County so elects, retirement service credit in the Teachers' and State Employees' Retirement System may be given to any solicitor of the recorder's courts of Robeson County prior to the time such solicitors were assimilated by the Administrative Office of the Courts in 1966; provided, such credit shall not be allowed unless the Board of County Commissioners of Robeson County pays to the Teachers' and State Employees' Retirement System, in a single lump sum payment, such amount as is determined by the Retirement System to be necessary to fund such credits.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of April, 1975.

S. B. 500 **CHAPTER 177**

AN ACT TO AUTHORIZE THE QUALIFIED VOTERS OF THE CITY OF ASHEBORO TO DETERMINE WHETHER OR NOT WINE AND MALT BEVERAGES MAY LEGALLY BE SOLD AND WHETHER OR NOT ALCOHOLIC BEVERAGE CONTROL STORES MAY LEGALLY BE OPERATED IN SAID CITY.

The General Assembly of North Carolina enacts:

Section 1. The City Council of the City of Asheboro shall upon a petition to said city council signed by at least fifteen percent (15%) of the number of voters who voted in the last municipal election within said city order an election to be held no earlier than January 1, 1976, on the questions of whether or not wine and malt beverages may be sold in the City of Asheboro and whether or not alcoholic beverage control stores may be operated in said city. Said election on said questions shall be held on such date after January 1, 1976, as the City Council of the City of Asheboro may determine. Said election may be called and held on a date to be fixed by the city council, but said election shall not be held within 45 days of the date of any general, special, or primary election to be held in the city. Said election shall be conducted by the appropriate board of elections and the costs thereof shall be paid from the general fund of said city.

Sec. 2. A new registration for voters for such election shall not be necessary and all qualified voters who are properly registered prior to registration for the election and those who register for said election shall be entitled to vote in said election. Except as otherwise herein provided, if a special election is called, the special election authorized shall be conducted under the same statutes, rules and regulations applicable to general elections for the City of Asheboro.

Sec. 3. The ballot shall give the voter the opportunity to vote "FOR" or "AGAINST" the questions presented thereon.

On the issue of whether unfortified wine is to be sold, the ballot shall contain one or more of the following:

(1) "FOR 'on-premises' sales of unfortified wine by Grade A hotels and restaurants only and 'off-premises' sales by other licensees.

AGAINST 'on-premises' sales of unfortified wine by Grade A hotels and restaurants only and 'off-premises' sales by other licensees."

(2) "FOR 'off-premises' sales only of unfortified wine.

AGAINST 'off-premises' sales only of unfortified wine."

On the issue of whether malt beverages are to be sold, the ballot shall contain one or more of the following:

(1) "FOR 'on-premises' and 'off-premises' sales of malt beverages,

AGAINST 'on-premises' and 'off-premises' sales of malt beverages," or

(2) "FOR 'on-premises' sales only of malt beverages,

AGAINST 'on-premises' sales only of malt beverages," or

(3) "FOR 'off-premises' sales only of malt beverages,

AGAINST 'off-premises' sales only of malt beverages," or

(4) "FOR 'on-premises' sales of malt beverages by Grade A hotels and restaurants only and 'off-premises' sales by other licensees,

AGAINST 'on-premises' sales of malt beverages by Grade A hotels and restaurants only and 'off-premises' sales by other licensees."

Any one or more of the above questions shall, if requested in the petition or by the city council, as authorized in this act, be placed on the same ballot.

On the issue of whether to establish city alcoholic beverage control stores, the ballot shall contain the following:

"FOR Alcoholic Beverage Control Stores.

AGAINST Alcoholic Beverage Control Stores."

Sec. 4. If a subsequent election shall be held and at such election a majority of the votes shall be cast "AGAINST Alcoholic Beverage Control Stores," the Alcoholic Beverage Control Board shall within three months from the canvassing of such votes and the declaration of the results thereof, close said stores and shall thereafter cease to operate the same and within said three months the Alcoholic Beverage Control Board shall dispose of all alcoholic beverages on hand, all fixtures and all other properties in the hands and under the control of said board and shall convert the same into cash and deposit the same into the general fund of the City of Asheboro. Thereafter, any and all public, local and private laws applicable to the sale of alcoholic beverages within the city in force and effect prior to the authorization to operate alcoholic beverage control stores shall be in full force and effect the same as if such election had not been held, and until or unless another election is held under the provisions of the act in which a majority of the votes shall be cast "FOR Alcoholic Beverage Control Stores". No election shall be called and held in the City of Asheboro under the provisions of this act within three years from the holding of the last election hereunder. The City Council of the City of Asheboro shall upon a petition to said city council, signed by at least fifteen percent (15%) of the number of voters who voted in the last municipal election within said city order a subsequent election to be held. If the first election is against alcoholic beverage control stores, then no further elections shall be held under this act.

Sec. 5. If the operation of alcoholic beverage control stores is authorized under the provisions of this act, the Mayor and City Council of the City of Asheboro shall immediately create a city board of alcoholic control to be

composed of a chairman and two other members who shall be well known for their character, ability and business acumen. Said board of alcoholic control shall be known and designated as the "City of Asheboro Board of Alcoholic Control". The chairman of said board shall be designated by the mayor and the city council of the city and shall serve for his first term a period of three years, and one member shall serve for his first term a period of two years, and the other member shall serve for a period of one year; and all terms shall begin with the date of their appointment, and after the said terms shall have expired, their successors in office shall serve for a period of three years. Their successors, or any vacancy occurring in the board, shall be named or filled by the mayor and the city council of the city.

Sec. 6. The City of Asheboro Board of Alcoholic Control shall have all of the powers and duties imposed by G.S. 18A-17 of the General Statutes of North Carolina on county boards of alcoholic control and shall be subject to the powers and authority of the State Board of Alcoholic Control the same as county boards of alcoholic control as provided in G.S. 18A-15 of the General Statutes. The said City of Asheboro Board of Alcoholic Control in the operation of any city alcoholic beverage control stores authorized under the provisions of this act shall be subject to the provisions of Chapter 18A of the General Statutes, except to the extent which the same may be in conflict with the provisions of this act. Whenever the word "county" board of alcoholic control appears in said Chapter, it shall include the City of Asheboro Board of Alcoholic Control.

Sec. 7. The net profits derived from the operation of alcoholic beverage control stores in the City of Asheboro shall be divided as follows:

(1) Seventy-five percent (75%) shall be turned over to the general fund of the City of Asheboro.

(2) Another fifteen percent (15%) shall be turned over to the general fund of the City of Asheboro to be spent, in the discretion of the city council, for charitable causes or city improvements.

(3) Ten percent (10%) shall be expended for law enforcement and rehabilitation in the city.

Sec. 8. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 9. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of April, 1975.

S. B. 601 CHAPTER 178

AN ACT TO RATIFY, APPROVE, CONFIRM AND VALIDATE ALL PROCEEDINGS TAKEN BY THE GOVERNING BOARDS OF UNITS OF LOCAL GOVERNMENT IN CONNECTION WITH THE AUTHORIZATION OF BONDS OF SAID UNITS.

The General Assembly of North Carolina enacts:

Section 1. All proceedings heretofore taken by the governing boards of units of local government in connection with the authorization of bonds are hereby ratified, approved, confirmed and in all respects validated, notwithstanding the provisions of G.S. 159-61(c); provided that the issuance of said bonds shall have been approved at an election by a majority of the qualified

voters of the unit voting thereon and that notice of said referendum shall have been published.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of April, 1975.

H. B. 358 CHAPTER 179

AN ACT TO AMEND ARTICLE 9 OF CHAPTER 163 OF THE GENERAL STATUTES TO SET A TIME CERTAIN FOR PETITIONS FOR A NEW POLITICAL PARTY AND VERIFICATION THEREOF.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-96 is amended by rewriting the last paragraph therein in its entirety to read as follows:

"The group of petitioners shall submit the petitions to the Chairman of the County Board of Elections in the county in which the signatures were obtained no later than 5:00 p.m. on the fifteenth day preceding the date the petitions are due to be filed with the State Board of Elections as provided in subsection (a)(2) of this section. Provided the petitions are timely submitted, the Chairman of the County Board of Elections shall require a fee of five cents (5¢) for each signature appearing and shall proceed to examine and verify the signatures under the provisions of this subsection. Verification shall be completed within two weeks from the date such petitions are presented and the required fee received."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of April, 1975.

H. B. 450 CHAPTER 180

AN ACT TO PROVIDE FOR A NEW CHARTER FOR THE CITY OF MORGANTON.

The General Assembly of North Carolina enacts:

Section 1. A charter for the City of Morganton shall be as follows:

"ARTICLE I.

"INCORPORATION, POWERS, BOUNDARIES, FORM OF GOVERNMENT.

"Section 1.1. *Incorporation.*—The City of Morganton, North Carolina, in the County of Burke, and the inhabitants thereof, within the corporate limits as now or hereafter established shall continue to be a municipal body politic and corporate, under the name of the City of Morganton (hereinafter at times referred to as the 'City').

"Sec. 1.2. *Powers.*—The City shall have all the powers, duties, rights, privileges, and immunities now vested in the City and now or hereafter granted to municipal corporations by the Constitution, by the General Laws of the State of North Carolina, and by this Charter. The City shall exercise and enjoy all other powers, functions, rights, privileges, and immunities necessary or desirable to promote or protect the safety, health, peace, security, good order, comfort, convenience, and general welfare of the City and of its inhabitants, and all

implied powers necessary to carry into execution all powers granted as fully and completely as if such powers were fully enumerated herein.

"Sec. 1.3. *Corporate limits.*—The corporate limits of the City shall be the same as those of the City of Morganton as provided by law and existing on the effective date of this Charter, or as hereafter changed in accordance with law. The Director of Engineering shall prepare a map to be designated 'Map of the City of Morganton Corporate Limits' showing the corporate boundaries of the City as the same may exist on the effective date of this Charter. The Director of Engineering shall also prepare a written description of the corporate boundaries as shown on the map to be designated 'Description of Morganton Corporate Limits'. Said map and description shall be retained permanently in the office of the City Manager as the official map and description of the corporate limits of the City. Upon any alteration or change of the corporate limits, made in accordance with law, the Director of Engineering shall immediately indicate any such alteration or change by making appropriate changes and/or alterations to the official map and description of the Morganton Corporate Limits. Photographic types or other copies of the official map and description of the Morganton City Limits certified as provided by law for the certification of ordinances shall be admissible in evidence in all courts and shall have the same force and effect as the official map and description of the Morganton Corporate Limits. Revisions and rewritten descriptions of the corporate limits of the City shall supersede for all purposes the earlier maps and descriptions which are respectively replaced. All extensions of the corporate limits shall be governed by the applicable provisions of the General Laws of North Carolina.

"Sec. 1.4. *Form of government.*—The government of the City provided by this Charter shall be the 'Council-Manager Form of Government' as provided by law.

"ARTICLE II.

"MAYOR AND COUNCIL.

"Chapter 1. The Council.

"Sec. 2.1. *Number of members; election.*—The Council shall consist of the Mayor and four (4) council members who shall be elected as provided in this Charter and in accordance with the uniform municipal election laws of North Carolina.

"Sec. 2.2. *Terms of office.*—Members of the Council shall serve for a term of four (4) years, beginning upon the day and hour of the organizational meeting held at the first regular meeting of the Council in December after the results of the election have been certified, and they shall serve until their successors have taken office.

"Sec. 2.3. *Qualifications.*—To be eligible for election as a council member or appointment and service as a council member, a person must be eligible for election by the people under the Constitution of North Carolina. In addition, a person must be a resident of the election district he seeks to represent and must continue to reside therein during his or her term of office.

"Sec. 2.4. *Compensation.*—Members of the Council shall receive as compensation for their services an amount fixed by ordinance of the Council. Each council member shall receive the same compensation and no change in any such compensation shall be effective until the date of the commencement of the terms of members of the Council elected at the next regular election following such change. The Council shall by ordinance establish a policy for

reimbursement of the actual and necessary expenses incurred by its members in the performance of their official duties.

"Sec. 2.5. *Vacancies.*—A vacancy in the membership of the Council shall exist when a duly elected person fails to qualify, or when a member who has been duly elected and qualified either dies, resigns, no longer meets the requirements of Section 2.3, or is recalled as provided by this Charter. A vacancy in the office of a council member shall be filled by majority vote of the remaining members of the Council within a period of ninety (90) days following the date that such vacancy occurs.

"Sec. 2.6 through 2.10. Reserved.

"Chapter 2. Mayor.

"Sec. 2.11. *Election and term of office.*—The Mayor shall be elected as provided in this Charter for a term of two (2) years. The term of office of the Mayor shall commence on the day and hour of the organizational meeting held at the first regular meeting of the Council in December after the results of the election have been certified, and he shall serve until his successor has taken office.

"Sec. 2.12. *Qualifications.*—To be eligible for election as Mayor, a person must be eligible for election by the people to office under the Constitution of North Carolina.

"Sec. 2.13. *Compensation.*—The Council shall fix the annual compensation of the Mayor. No increase in the Mayor's compensation shall become effective until the date of the commencement of the term of office of the Mayor elected at the next regular election following such increase. The Council shall by ordinance provide for reimbursement of the actual and necessary expenses of the Mayor incurred in the performance of his official duties.

"Sec. 2.14. *Vacancy; absence or disability.*—(a) A vacancy in the office of Mayor shall exist when a duly elected person fails to qualify or when a person who has been elected and has qualified dies, resigns, or no longer meets the requirements of Section 2.11 of this Charter, or is recalled. If a vacancy occurs in the office of Mayor, the Council shall by majority vote appoint some qualified person to fill the office for the remainder of the unexpired term. The Mayor Pro Tempore shall discharge the powers and duties of the office of Mayor until the office is filled, and he shall receive the same compensation as received by the office of Mayor during such period of service. The council seat of Mayor Pro Tempore is not vacant during any period in which the Mayor Pro Tempore discharges powers and duties of the office of Mayor.

(b) During the absence or disability of the Mayor, the Mayor Pro Tempore shall perform the powers and duties of the Mayor during the period that such absence or disability exists. The inability of the Mayor to perform the duties of his office shall be determined by the Council in accordance with the provisions of G.S. 160A-70.

"Sec. 2.15. *Powers and duties.*—(a) The Mayor shall be the official head of the City government. Consistent with the provisions of this Charter, he shall be vested with all of the powers, duties, rights, privileges and immunities granted to and conferred on Mayors of Cities by the General Laws of North Carolina.

(b) The Mayor shall preside at meetings of the Council and shall have all the rights, powers, duties and responsibilities as a member of the Council, except that he shall be entitled to vote on matters before the Council only where there

is an equal division on a question, and then the Mayor shall determine the matter by his vote. He shall vote in no other case.

(c) The Mayor, unless some other officer is authorized by the Council, shall sign written contracts and deeds of the City and any of its agencies.

(d) The Mayor shall be authorized to appoint for his information and assistance, advisory boards, commissions, and committees, which shall be answerable to him, but whose actions shall be advisory in nature.

(e) The Mayor shall perform such other duties consistent with this Charter as may be conferred upon him by ordinance of the Council.

"Sec. 2.16 through 2.20. Reserved.

"Chapter 3. Organization, Rules, Offices.

"Sec. 2.21. *Organizational meeting; oath; election of Mayor Pro Tempore.*—The Council shall meet for organization in the Council Chamber on the date and at the time of the first regular meeting in December after the results of the election have been certified, or if such day is a legal holiday, on the next following day not a legal holiday. At that meeting, the Mayor and each member of the Council whose term of office begins on that day shall take and subscribe the oath required by the Constitution of North Carolina. The Judge of the Superior Court, or his designee, or other qualified person selected by the incumbent council members, shall administer the oath. Following the induction of new members, the Council by majority vote shall elect a council member to serve as Mayor Pro Tempore, who shall serve at the pleasure of the Council and until his successor is elected.

"Sec. 2.22. *Rules; quorum; voting.*—(a) The Council shall by ordinance adopt and publish rules to govern its proceedings and transaction of business. A majority of the Council shall constitute a quorum for the transaction of business, but a less number may adjourn from time to time to compel the attendance of absent members in such manner as may be prescribed by ordinance. The number required for a quorum shall not be affected by vacancies.

(b) Except where a greater number is required by law, an affirmative vote equal to a majority of all the voting members of the council present and not excused from voting on a question (including the mayor's vote in case of equal division) shall be required to adopt any ordinance or any resolution or motion having the effect of an ordinance; provided, however, that no ordinance shall be finally adopted on the date it is introduced unless adopted by an affirmative vote equal to or greater than two thirds of all of the council members, not including any member excused from voting on the question (but including the mayor's vote in case of equal division). No member of the Council shall be excused from voting except on matters involving the consideration of his own official conduct or involving his financial interest. The question of compensation and allowances of members of the Council or the Mayor shall not be considered to involve a member's own financial interest or official conduct. In all other cases, a failure to vote by a member who is physically present in the council chamber, or who has withdrawn without being excused by a majority vote of the remaining members present, shall be recorded as an affirmative vote.

"Sec. 2.23. *Meetings.*—(a) The rules of the Council shall provide for the time and place for holding regular meetings, which shall be held at least once each month. Special meetings shall be called in accordance with the procedure provided by G.S. 160A-71(b).

(b) Except as otherwise provided by law, all meetings of the Council shall be open to the public, and any citizen shall have access to the minutes and records thereof at reasonable times and under such conditions as provided by ordinance.

"Sec. 2.24. *City Attorney.*—The Council shall appoint a City Attorney to serve at its pleasure. The City Attorney shall be a member of the State Bar of North Carolina in good standing. The compensation of the City Attorney shall be fixed by the Council. The City Attorney shall be the legal advisor to and attorney and counsel to the City and its officers in matters relating to their official duties.

"Sec. 2.25 through 2.30. Reserved.

"Chapter 4. Legislative Powers and Procedures.

"Sec. 2.31. *Legislative powers.*—All legislative powers of the City are hereby vested in the Council.

"Sec. 2.32. *Legislative procedure.*—(a) Except as otherwise provided by law, the procedures governing the manner of introduction, form, distribution, and reading of ordinances and resolutions shall be prescribed by rules of the Council.

(b) In all other respects, the amendment, repeal, pleading or proving of ordinances shall be governed by the applicable provisions of the General Laws of North Carolina not inconsistent with this Charter.

(c) The Council shall prescribe by ordinance or rule the manner and procedures for the introduction, consideration and adoption of ordinances to meet any public emergency affecting the life, health, property or public peace of the City, provided that no such emergency ordinance shall levy taxes, grant, renew or extend a franchise, or authorize the borrowing of money except as provided by law.

(d) The Council may adopt any standard code of technical regulations by reference thereto in the adopting ordinance as provided by General Law.

(e) All ordinances and resolutions shall take effect upon adoption unless otherwise provided therein or unless otherwise provided by General Law. The procedure for authentication and recording of ordinances and resolutions shall be prescribed by rules of the Council.

"Sec. 2.33. *Initiative and referendum.*—The qualified voters of the City may by petition propose to the Council any ordinance and require reconsideration by the Council of any adopted ordinance except a budget ordinance. An initiative or referendum petition shall bear the signatures equal in number to at least fifteen percent (15%) of the registered voters of the City qualified to vote in the last preceding general municipal election.

(1) Initiative. If the Council fails to adopt an ordinance substantially as proposed by an initiative petition within sixty (60) days after the date on which the petition was certified as sufficient, the Council shall cause the proposed ordinance to be submitted to the voters of the City. The vote on the proposed ordinance shall be held within ninety (90) days of the date on which the initiative petition was certified as sufficient. If a majority of those voting in the election approve the proposed ordinance, it shall become an ordinance of the City on the date the results of the election are certified unless a different effective date is contained in the proposed ordinance.

(2) Referendum. If the Council fails to repeal any ordinance that is the subject of a referendum petition within sixty (60) days after the sufficiency of the referendum petition is certified, the Council shall cause the ordinance to be submitted to the voters of the City. The vote on the ordinance shall be held

within ninety (90) days of the date on which the referendum petition was certified as sufficient. If a majority of those voting in the election approve the repeal of the ordinance, the ordinance shall be repealed on the date the results of the election are certified. If a majority of those voting in the election reject the repeal of the ordinance, the ordinance shall continue as an ordinance of the City.

The Council by ordinance shall determine the procedures for submitting, filing, verification and certification of initiative and referendum petitions and for calling an election on the initiated or referred ordinance.

"Sec. 2.34 through 2.40. Reserved.

"ARTICLE III.

"ELECTIONS.

"Chapter 1. Representation.

"Sec. 3.1. *Manner of election; voting.*—(a) The entire electorate of the City shall be entitled to vote in elections for Mayor and the four (4) council members who shall reside respectively in Council Districts No. 1, No. 2, No. 3, and No. 4.

(b) At the regular municipal election to be held in November, 1975, there shall be an election in the City for the selection of the Mayor and the two council members in office on the effective date of this Charter whose terms of office expire in 1975. At the regular municipal election to be held in November, 1977, there shall be an election in the City for the selection of the two council members in office on the effective date of this Charter whose terms expire in 1977, and the Mayor elected in the November, 1975, election whose term expires in 1977. Thereafter every two years there shall be held an election to select the successor to the Mayor and to the council members whose terms are expiring.

"Sec. 3.2. *Council districts.*—A written description of and a map showing the boundaries of the respective four council districts shall be prepared and maintained by the Director of Engineering. Said description and map shall be retained on file in the office of the City Manager and shall be available for public inspection

"Sec. 3.3 through 3.10. Reserved.

"Chapter 2. Conduct of Elections.

"Sec. 3.11. *Applicability of General Laws.*—Except as otherwise provided in this Charter, Chapter 163 of the General Statutes as applicable to cities shall govern the conduct of elections for the offices of Mayor and members of the Council. All other elections and referenda of the City shall be conducted in accordance with the provisions of the General Statutes of North Carolina applicable to cities.

"Sec. 3.12. *Election board; officials.*—The City of Morganton Board of Elections shall conduct the elections for the City government unless otherwise provided by the Council.

"Sec. 3.13. *Method of election.*—The Mayor and members of the Council shall be elected by the nonpartisan election and runoff election method as provided in G.S. 163-290 (a)(4).

"Sec. 3.14. *Time of election.*—Elections shall be held biennially on the fourth Tuesday before the Tuesday after the first Monday in November beginning in 1975 and runoff elections, if required, shall be held on Tuesday after the first Monday in November.

"Sec. 3.15. *Special elections.*—The Council shall have power to call special elections as provided by law. All special elections shall be conducted in accordance with the applicable General Statutes of North Carolina.

"Sec. 3.16. *Precincts.*—For purposes of municipal elections in the City of Morganton, the City shall be divided into such number of precincts and in such manner and with such polling places as the Council may from time to time determine and designate by proper resolution.

"Sec. 3.17 through 3.20. Reserved.

"Chapter 3. Recall.

"Sec. 3.21. *Officials subject to recall.*—The Mayor or a member of the Council shall be subject to removal pursuant to this Chapter. An official may be removed upon the filing of a sufficient recall petition and the affirmative vote of a majority of those voting on the question of removal at a recall election. No official may be subject to recall during the first year or the last six months of his term of office.

"Sec. 3.22. *Petition; procedure.*—A recall petition shall be filed with the City of Morganton Board of Elections. A petition to recall the Mayor or a council member shall bear the signatures of qualified voters of the City equal in number to at least twenty-five percent (25%) of the registered voters of the City qualified to vote in the last preceding general municipal election.

The City of Morganton Board of Elections shall verify the petition signatures. If a sufficient recall petition is submitted, the City of Morganton Board of Elections shall certify its sufficiency to the Council, and the Council shall adopt a resolution calling for a recall election to be held not less than forty-five (45) days nor more than ninety (90) days after the date the petition has been certified to the Council. The election may be held alone or at the same time as any other general or special election within the period. The City of Morganton Board of Elections shall conduct the recall election.

If a majority of the votes cast on the question are against the official's recall, he shall continue in office. If a majority of the votes cast on the question are for the recall of the official, he is removed on the date the City of Morganton Board of Elections certifies the results of the election. A vacancy created by removal of a member of the Council or the Mayor shall be filled as provided in Section 2.5 or Section 2.14 of this Charter.

"Sec. 3.23 through 3.30. Reserved.

"ARTICLE IV.

"ORGANIZATION AND ADMINISTRATION.

"Chapter 1. General Provisions.

"Sec. 4.1. *City departments and agencies.*—Except as provided by this Charter, the departments and agencies of the City shall be created and established by ordinance, and the departments shall be responsible for the performance of the functions and services enumerated therein and as prescribed by administrative regulations of the City Manager consistent therewith. The operations and responsibilities of such departments and agencies shall be distributed among such divisions, or bureaus and shall consist of such officers and employees as may be provided by ordinance or administrative regulations consistent therewith.

"Sec. 4.2. *Administrative reorganization.*—In accordance with the provisions of this Charter and the general laws of the State, the Council may by ordinance

provide for the reorganization of the administrative structure and reorganization of the City government.

"Sec. 4.3 through 4.10. Reserved.

"Chapter 2. City Manager.

"Sec. 4.11. *Appointment, qualifications, term.*—The Council shall appoint a City Manager to serve at its pleasure. The City Manager shall be appointed solely on the basis of his executive and administrative qualifications, and he need not be a resident of the City or State when appointed.

"Sec. 4.12. *Chief executive officer.*—The City Manager shall be the chief executive officer of the City government. He shall be responsible to the Council for the proper and efficient administration of the City government.

"Sec. 4.13. *Duties and responsibilities.*—The City Manager shall:

(a) See that the laws of the State and the ordinances, resolutions, rules and regulations of the City are faithfully executed and enforced;

(b) Prepare the agenda and attend meetings of the Council and recommend for adoption any measure he deems expedient;

(c) Make reports to the Council from time to time upon the affairs of the City and keep the Council fully advised of the City's financial condition and its future financial needs;

(d) Appoint and suspend or remove all City employees, except the City Attorney, in accordance with such general personnel rules, regulations, policies or ordinances as the Council may adopt;

(e) Prepare and submit the annual budget and capital program to the Council;

(f) Direct and supervise the administration of all departments, properties, and operations of the City subject to the general direction and control of the Council;

(g) Act in a liaison capacity on behalf of the Council with boards, offices, agencies and commissions of the City;

(h) Sign contracts, deeds, licenses and other public documents on behalf of the City as authorized by the Council; and

(i) Exercise any other powers and perform any other duties required or authorized by the Council and not inconsistent with this Charter.

"Sec. 4.14. *Absence or disability.*—The City Manager may designate, with the approval of the Council, a qualified person to exercise the powers and perform the duties of the City Manager during his temporary absence or disability for a period of fourteen (14) days from the date of such absence or disability. The length of such period may be extended by the Council.

"Sec. 4.15. *Liaison with administrative service.*—All liaison between the Mayor and Council members, and the department heads or employees of the City, shall be through the City Manager. Neither the Mayor nor any member of the Council shall direct the appointment of any person to, nor his removal from, office by the City Manager. Except for the purpose of inquiry, the Council and its members shall not deal with the administrative service except through the City Manager. Neither the Mayor nor any member of the Council shall give orders to any subordinates of the City Manager either publicly or privately.

"Sec. 4.16 through 4.20. Reserved.

"Chapter 3. Administrative Officers and Employees.

"Sec. 4.21. *City Clerk.*—The Council shall designate the City Manager as City Clerk. He shall be responsible for keeping a journal of the proceedings of

the Mayor and Council and maintaining, in a safe place, all records and documents pertaining to the affairs of the City. The manager shall be authorized to delegate his responsibilities as City Clerk.

"Sec. 4.22. *Finance officer.*—The City Manager shall appoint a City Finance Director, whose powers and duties shall be as defined in 'The Local Government Budget and Fiscal Control Act' of the General Laws of North Carolina.

"Sec. 4.23. *Tax collector.*—Notwithstanding any other provisions of G.S. 105-349 to the contrary, the City Manager shall appoint a Tax Collector whose powers and duties shall be as defined in Chapter 105 of the North Carolina General Statutes.

"Sec. 4.24 through 4.30. Reserved.

"Chapter 4. Personnel.

"Sec. 4.31. *Personnel system.*—The Council shall establish by ordinance a system of personnel administration. The system shall cover all employees of the City except (a) elected officials, (b) persons temporarily employed in a professional or scientific capacity, and (c) temporary and part-time employees. The system of personnel administration shall set forth policies, rules and regulations to administer the personnel affairs of the City.

"Sec. 4.32 through 4.40. Reserved.

"Chapter 5. Boards and Commissions.

"Sec. 4.41. *General provisions.*—(a) Except as prescribed by General Law or special act of the General Assembly, the voting members of the Council (not including the Mayor, except in case of equal division) shall have the authority to create commissions, councils or boards which shall perform duties prescribed by the Council, including, but not limited to, making studies, conducting research and investigations, holding hearings, and preparing recommendations as to needed ordinances and resolutions; provided, the voting members of the Council shall be authorized to designate and name certain boards, commissions and committees to be appointed solely by the Mayor.

"Sec. 4.42. *Composition; appointment; bylaws.*—(a) Except as otherwise provided by law, the voting members of the Council (not including the Mayor, except in case of equal division) shall have the authority to provide for the manner of appointment, makeup and composition of such commissions, councils or boards, the periods of existence of same, and for the compensation of such members and employees of same, in whole or in part. The Council may provide by ordinance for reimbursement of the actual and necessary expenses incurred by the members thereof in the performance of their official duties. The Council shall have the authority to annually appropriate and donate money derived from contributions and other nontax revenues for and to such commissions, councils and boards to provide for their operation, either in whole or in part.

(b) Any vacancy in office of any member of a board or commission shall be filled for the unexpired term in the manner prescribed for original appointment.

(c) Any member of a board or commission may be removed from office for cause by a majority vote of all of the voting council members.

(d) Each board and commission may establish such bylaws, rules and regulations, not inconsistent with this Charter, ordinances of the Council, or applicable State law, as it deems appropriate and necessary for the conduct of its affairs, copies of which shall be filed with the City Manager and approved by the Council.

"Sec. 4.43 through 4.50. Reserved.

"ARTICLE V.
"GENERAL PROVISIONS.
"Chapter 1. Claims Against the City.

"Sec. 5.1. *Presentation of claims to council.*—No action shall be instituted or maintained against the City upon any claim or demand whatever of any kind or character until the claimant shall have first presented in writing his or her claim or demand to the Council, and the Council shall have declined to pay or settle the same as presented, or for one hundred twenty (120) days after presentation shall have neglected to enter or cause to be entered upon its minutes its determination in regard thereto. Nothing contained in this Chapter shall be construed to prevent any statute of limitations from commencing to run at the time when a claim accrued or demand arose, or in any manner to interfere with its running.

"Sec. 5.2. *Time for presentation of damage claims.*—(a) Notice, form and contents. Except as otherwise provided in this section, no action for damages of any character whatever, to either person or property, shall be instituted against the City, unless within ninety (90) days after the happening or infliction of the injury complained of, the complainant, his executor, administrator, guardian or next friend shall have given notice in writing to the City Manager of the injury, stating in the notice the date and place of the injury, the manner of infliction, the character of the injury and the amount of damage claimed.

(b) Claims for taking or use of real property. No action shall be instituted against the City on account of damages to or compensation for real property used or taken by the City for any public purpose of any kind unless within two (2) years after such alleged use, the owner, his executor, administrator, guardian or next friend shall have given notice in writing to the Council of the claim, the notice to set forth the date that the alleged use commenced, a description of the property alleged to have been used and the amount of damage or compensation claimed.

"Sec. 5.3 through 5.10. Reserved.

"Chapter 2. Local Improvements.

"Sec. 5.11. *Authority.*—The City shall have the authority granted to cities by the General Laws of the State with respect to local improvements, including without limitation, grading, regrading, widening, paving and repaving public streets and alleys; constructing, reconstructing, and altering sidewalks, curbs, gutters and drains in the public streets and alleys; and laying or relaying sewer and water lines.

"Sec. 5.12. *Alternative procedures for street improvements.*—(a) The Council, acting in accordance with all other procedures set forth in Article 10 of Chapter 160A of the General Statutes of North Carolina, may order the making of any street improvement and specially assess the cost thereof against benefited property without receiving a petition as specified in G.S. 160A-217(a).

(b) The Council may apportion special assessments as provided in G.S. 160A-236 without the consent of any property owner, in the event of property which has been or is about to be subdivided.

"Sec. 5.13 through 5.20. Reserved.

"Chapter 3. Eminent Domain.

"Sec. 5.21. *Condemnation; authority and procedure.*—(a) If at any time the Council should need to purchase any land within or without the City Limits, deemed necessary for a public use of the City, or for other purposes authorized

by this Charter or other applicable law, and cannot agree with the owner of such land as to the compensation to be paid therefor, then the Council is hereby specifically authorized and empowered to, in the name of the City, condemn either the fee or an easement in any such land, whether the land be owned by any private person, firm or corporation, or whether it be owned by any railroad company, power company, telephone company, gas company, or other quasi-public corporation, or whether the land be devoted to private or public use, and the proceedings for such condemnation and determination of the compensation to be paid shall be those prescribed by Article 9 of Chapter 136 of the North Carolina General Statutes; provided, however, that the provisions of this section shall not apply with regard to properties owned by public service corporations as defined in G.S. 160A-243(c) unless the exercise of such power of eminent domain is either consented to by the owner of the property to be acquired by the city or, otherwise, first adjudicated after notice and a hearing that such acquisition will not prevent or unreasonably impair the continued devotion to the public use of such properties and the operation by such public service corporation.

(b) In addition, the City shall be authorized to exercise the power of eminent domain under the procedures available to cities in Article 11 of Chapter 160A, and Article 2 of Chapter 40 of the General Statutes of North Carolina.

(c) When any rights of land, right-of-way, easement or any other rights and interests in real property of whatever character shall be required for the purpose of opening new streets, or widening or changing those already opened, or other subjects allowed by this Charter, including water works, sewers, drains, sewage disposal, natural gas systems, electrical power systems, transportation facilities, airports, and any other public utility inside or outside the City, and the compensation therefor cannot be agreed upon by the owner or owners and the City Council, the same may be condemned and taken by the City Council at a valuation to be made by three disinterested freeholders of the City, one of whom shall be chosen by the City Council and one by the owner or owners, and in case these two do not agree, then the two thus chosen shall select a third, and in case the owner or owners, or any of them, fail or refuse to choose a freeholder, as above provided, for five (5) days after being notified so to do, then it shall be the duty of the City Council to appoint a disinterested freeholder to act on the part of said owner or owners. In making the valuation, said freeholders, after giving the owner or owners or their agent notice, or giving a notice by publication in two issues of a weekly newspaper published in the City of Morganton in case the owner cannot be found in the City, and after being duly sworn to act impartially and fairly, shall take into consideration the loss or damage which may accrue to the owner or owners in consequence of the land or right-of-way being surrendered, also such benefit or advantage such owner or owners may receive from the opening, widening, or changing of such streets or other public improvements, or utilities, and ascertaining the sum, if any, which shall be paid to the owner or owners of said property, and report the same in writing over the signature of any two of them, to the City Council, which report on being confirmed by the Council and spread upon its minutes, shall have the effect of a judgment against the City of Morganton and shall pass the title of the land so taken to the City of Morganton, and the land so taken may at once be used by the City for the purposes intended: Provided, that either party may appeal to the next term of the Superior Court of Burke County: Provided, however, that

such appeal shall not hinder or delay the City Council in opening or changing such street or making such improvement, or acquiring, enlarging or extending any public utility inside or outside the City Limits.

"Sec. 5.22 through 5.30. Reserved.

"Chapter 4. Other General Provisions.

"Sec. 5.31. *Charter amendments.*—(a) As soon as possible after the adjournment of each General Assembly, the City Attorney shall present to the Council copies of all local laws relating to the property, affairs and government of the City that were enacted by such General Assembly, whether or not amending in terms this Charter. Such recommendations may include suggestions for renumbering or rearranging the provisions of such laws, for providing titles and catch lines, and for such other changes in arrangement and form that do not change the law, as may be thought necessary to implement the purposes of this section.

(b) After considering the recommendations of the City Attorney, the Council may provide for the incorporation of such laws into this Charter.

(c) The purpose of this section is to enable the City to maintain at all times a current and accurate city charter, organized in clear and orderly fashion and embracing all pertinent local laws relating to the property, affairs and government of the City.

"Sec.5.32 through 5.40. Reserved.

"Article VI.

"Transitional Provisions.

"Sec. 6.1. *Ordinances and regulations.*—Existing ordinances and resolutions of the City and existing rules and regulations of the City and its agencies not inconsistent with the provisions of this Charter shall be effective ordinances and resolutions of the City or of its agencies until they have been repealed, modified, or amended.

"Sec. 6.2. *Contracts and obligations; proceeding.*—(a) All contracts, orders, leases, bonds and other obligations or instruments entered into by the City or for its benefit prior to the effective date of this Charter shall continue in effect according to the terms thereof, as obligations and rights of the City.

(b) No action or proceeding of any nature (whether civil or criminal) judicial or administrative, or otherwise, pending at the effective date of this Charter or against the City or of its departments and agencies shall be abated or otherwise affected by the adoption of this Charter.

The existing departmental organization of the City shall continue in effect upon the effective date of this Charter until such organization is changed or reorganized as provided by ordinance of the Council and administrative regulation consistent therewith.

"Sec. 6.3. *Section captions.*—The captions of the several sections of this Charter are informative only and are not to be construed a part thereof.

"Sec. 6.4. *Severability.*—If any provisions of this Charter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this Charter which can be given effect without the invalid provision or application, and to this end the provisions of this Charter are declared to be severable."

Sec. 2. The following acts or portions of acts are hereby repealed:

1. Private Laws, 1913, Chapter 104.

2. Private Laws, 1913, Chapter 420.

3. Private Laws, 1915, Chapter 113.
4. Private Laws, 1917, Chapter 8.
5. Private Laws, 1921, Chapter 91.
6. Private Laws, 1923, Chapter 101.
7. Private Laws, 1925, Chapter 218.
8. Private Laws, 1927, Chapter 26.
9. Private Laws, 1927, Chapter 35.
10. Private Laws, 1933, Chapter 154.
11. Private Laws, 1933, Chapter 205.
12. Session Laws, 1943, Chapter 139.
13. Session Laws, 1947, Chapter 703.
14. Session Laws, 1953, Chapter 539.
15. Session Laws, 1959, Chapter 201.
16. Session Laws, 1959, Chapter 612.
17. Session Laws, 1959, Chapter 832.

Sec. 3. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of April, 1975.

S. B. 411 **CHAPTER 181**

AN ACT TO MAKE CONVEYANCES TO AND FROM PERSONS DESIGNATED "AS TRUSTEE" OR "AS AGENT" VALID AND MARKETABLE UNLESS RECORDS DISCLOSE ACTUAL EXISTENCE OF A TRUST OR AGENCY RELATIONSHIP.

The General Assembly of North Carolina enacts:

Section 1. When any instrument affecting title to real estate describes a party as trustee or agent, or otherwise indicates that a party is or may be acting as trustee or agent, but does not indicate any beneficial interest, set forth his powers or specify some other recorded instrument setting forth such powers and the place in the public records where it is recorded, and there is no recorded instrument in the record chain of title to such real estate setting forth such powers, then the description or indication shall not be notice to any person thereafter dealing with the real estate of any limitation upon the powers of the party nor require any inquiry or investigation as to such trust or agency. Such trustee or agent shall be deemed to have full power to convey or otherwise dispose of the real estate; and no person interested under such trust or agency shall be entitled to make any claim against the real estate based upon notice given by such description or indication. This act shall not prevent claims against the trustee or agent or against property other than the real estate.

Sec. 2. This act shall apply to instruments recorded before or after its effective date, but shall not bar any claim based on notice given by any instrument if, within one year after the effective date, a written notice of the claim is recorded, identifying the place in the public records where the reference to a fiduciary may be found, stating the powers of such fiduciary, and naming the person who is then the record owner of the real estate affected. Such notice of claim shall be signed and acknowledged by the person executing the same, and may be executed by any person interested under such trust or agency, or by his

attorney, agent, guardian, conservator, parent, or any other person acting on his behalf, if for any reason he is unable to act. The notice of claim shall be recorded and indexed under the name of the person declared therein to be the record owner.

Sec. 3. Registrations hereunder shall be subject to the provisions and penalties imposed by G.S. 47B-6.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of April, 1975.

H. B. 300 CHAPTER 182

AN ACT TO PROHIBIT THE TRANSPORTATION OF COPPER WITHOUT DOCUMENTATION OF ORIGIN.

The General Assembly of North Carolina enacts:

Section 1. Article 1 of Chapter 66 of the General Statutes is amended by adding a new section to read as follows:

"§ 66-11.1. *Transportation of copper.*—It shall be unlawful for any person to transport or have in his possession on highways of this State, in any vehicle other than a vehicle used in the ordinary course of business for the purpose of transporting such copper, an amount of such copper of an aggregate weight of more than 25 pounds, unless such person shall have in his possession (1) a bill of sale pertaining to such copper signed by (a) a holder of a sales and use tax registration number from the North Carolina Department of Revenue; or (b) an authorized wholesaler engaged in the sale of such copper; or (c) a registered dealer in scrap metals; or (d) a seller of antiques or objects of art; or (2) in the event the person from whom such copper was purchased was other than one of the above enumerated persons or firms, a certificate of origin signed by the sheriff, or his designated representative, of the county in which the purchase was made. Such bill of sale or certificate of origin shall clearly identify the material to which it applies and show thereon the name and address of the seller, license plate of the vehicle in which such material is delivered to the purchaser, identified by license number, year and state of issue, the name and address of the purchaser, the date of sale, and the type and amount of such copper purchased.

Any person violating the provisions of this subsection shall be deemed guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars ($500.00) or be imprisoned for not more than six months."

Sec. 2. G.S. 66-11, as found in the 1974 Cumulative Supplement to Volume 2C of the General Statutes, is amended by inserting on line 4 after the words "by the communication" the words "or electric utility".

Sec. 3. Article 16 of Chapter 14 of the General Statutes as the same appears in the 1969 Replacement Volume 1B is hereby amended to include the following new section:

"14.72.3. For criminal offenses involving the transportation of copper see G.S. 66-11.1."

Sec. 4. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 29th day of April, 1975.

S. B. 378 **CHAPTER 183**

AN ACT TO REPEAL G.S. 102-13 RELATING TO RECORDING TAX.

The General Assembly of North Carolina enacts:

Section 1. Section 102-13 of the North Carolina General Statutes is repealed.

Sec. 2. Any taxes due under G.S. 102-13 that remain unpaid as of the effective date of this act are released.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of April, 1975.

H. B. 3 **CHAPTER 184**

AN ACT TO REPEAL CHAPTER 1041 OF THE 1973 SESSION LAWS (SECOND SESSION, 1974) WHICH ACT AMENDED G.S. 62-133(c) TO ALLOW THE NORTH CAROLINA UTILITIES COMMISSION, IN ESTABLISHING PUBLIC UTILITY RATES, TO USE A TEST PERIOD OF 12 MONTHS COMMENCING ON THE FIRST DAY OF THE MONTH FOLLOWING THE DATE THE RATES ARE PROPOSED TO BECOME EFFECTIVE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 1041 of the 1973 Session Laws (Second Session, 1974) is repealed.

Sec. 2. G.S. 62-133(c) is amended by adding, in lieu of the second sentence deleted by Section 1 of this act, the following:

"The test period shall consist of 12 months' historical operating experience prior to the date the rates are proposed to become effective but the Commission shall consider such relevant, material and competent evidence as may be offered by any party to the proceeding tending to show actual changes in costs, revenues or the value of the public utility's property used and useful in providing the service rendered to the public within this State which is based upon circumstances and events occurring up to the time the hearing is closed."

Sec. 3. This act shall be in full force and effect upon ratification, but shall not affect pending litigation.

In the General Assembly read three times and ratified, this the 30th day of April, 1975.

S. B. 508 **CHAPTER 185**

AN ACT TO EXTEND THE MENTAL HEALTH STUDY COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. The Mental Health Care Study Commission established and structured by 1973 General Assembly Resolution 80 and 1973 Session Laws Chapter 806 is hereby revived and authorized to continue in existence until July 1, 1977.

Sec. 2. The continued Mental Health Care Study Commission shall have all the powers and duties of the original Study Commission as they are necessary to continue the original study, assist in the implementation of the original

Study Commission recommendations and plan further activity on the subject of the study.

Sec. 3. Members of the original Mental Health Care Study Commission shall remain members of the continued Study Commission, but they shall serve at the pleasure of the person holding the office authorized to make the original appointment. Members of the General Assembly who are not reelected shall not be disqualified from membership on the continued Study Commission because they are no longer members of the General Assembly, but the person holding the office authorized to make the original appointment may replace them and any other member of the Study Commission with new appointees.

Sec. 4. Members and staff of the continued Mental Health Care Study Commission shall receive the same compensation and expenses as under the original authorization in 1973 General Assembly Resolution 80, and funding for the Study Commission shall be from the same source as authorized in that original resolution.

Sec. 5. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 1st day of May, 1975.

H. B. 266

CHAPTER 186

AN ACT AUTHORIZING MUNICIPALITIES IN THE STATE OF NORTH CAROLINA TO JOINTLY COOPERATE IN THE GENERATION AND TRANSMISSION OF ELECTRIC POWER AND ENERGY AND TO JOINTLY OWN AND OPERATE FACILITIES THEREFOR; PROVIDING FOR THE CREATION OF JOINT AGENCIES THEREFOR; AND PROVIDING FOR THE ISSUANCE OF REVENUE BONDS TO FINANCE THE COSTS THEREOF.

The General Assembly of North Carolina enacts:

Section 1. The General Statutes of North Carolina are hereby amended by inserting therein a new Chapter to be designated Chapter 159B and to read as follows:

"CHAPTER 159B.

"Joint Municipal Electric Power and Energy Act.

"§ 159B-1. *Short title.*—This Chapter may be cited as the 'Joint Municipal Electric Power and Energy Act'.

"§ 159B-2. *Legislative findings and purposes.*—The General Assembly hereby finds and determines that:

A critical situation exists with respect to the present and future supply of electric power and energy in the State of North Carolina;

The public utilities operating in the State have sustained greatly increased capital and operating costs;

Such public utilities have found it necessary to postpone or curtail construction of planned generation and transmission facilities serving the consumers of electricity in the State, increasing the ultimate cost of such facilities to the public utilities, and that such postponements and curtailments will have an adverse effect on the provision of adequate and reliable electric service in the State;

The above conditions have occurred despite substantial increases in electric rates;

In the absence of further material increases in electric rates, additional postponements and curtailments in the construction of additional generation and transmission facilities may occur, thereby impairing those utilities' ability to continue to provide an adequate and reliable source of electric power and energy in the State;

Seventy-two (72) municipalities in the State have for many years owned and operated systems for the distribution of electric power and energy to customers in their respective service areas and are empowered severally to engage in the generation and transmission of electric power and energy;

Such municipalities owning electric distribution systems have an obligation to provide their inhabitants and customers an adequate, reliable and economical source of electric power and energy in the future;

In order to achieve the economies and efficiencies made possible by the proper planning, financing, sizing and location of facilities for the generation and transmission of electric power and energy which are not practical for any municipality acting alone, and to insure an adequate, reliable and economical supply of electric power and energy to the people of the State, it is desirable for the State of North Carolina to authorize municipal electric systems to jointly plan, finance, develop, own and operate electric generation and transmission facilities appropriate to their needs in order to provide for their present and future power requirements for all uses without supplanting or displacing the service at retail of other electric suppliers operating in the State; and

The joint planning, financing, development, ownership and operation of electric generation and transmission facilities by municipalities which own electric distribution systems and the issuance of revenue bonds for such purposes as provided in this Chapter is for a public use and for public and municipal purposes and is a means of achieving economies, adequacy and reliability in the generation of electric power and energy and in the meeting of future needs of the State and its inhabitants.

"§ 159B-3. *Definitions.*—The following terms whenever used or referred to in this Chapter shall have the following respective meanings unless a different meaning clearly appears from the context:

(1) 'Bonds' shall mean electric revenue bonds, notes and other evidences of indebtedness of a joint agency or municipality issued under the provisions of this Chapter and shall include refunding bonds.

(2) 'Cost' or 'cost of a project' shall mean, but shall not be limited to, the cost of acquisition, construction, reconstruction, improvement, enlargement, betterment or extension of any project, including the cost of studies, plans, specifications, surveys, and estimates of costs and revenues relating thereto; the cost of land, land rights, rights-of-way and easements, water rights, fees, permits, approvals, licenses, certificates, franchises, and the preparation of applications for and securing the same; administrative, legal, engineering and inspection expenses; financing fees, expenses and costs; working capital; initial fuel costs; interest on the bonds during the period of construction and for such reasonable period thereafter as may be determined by the issuing municipality or joint agency; establishment of reserves; and all other expenditures of the issuing municipality or joint agency incidental, necessary or convenient to the acquisition, construction, reconstruction, improvement, enlargement, betterment or extension of any project and the placing of the same in operation.

(3) 'Governing board' shall mean the legislative body, council, board of commissioners, board of trustees, or other body charged by law with governing the municipality or joint agency.

(4) 'Joint agency' shall mean a public body and body corporate and politic organized in accordance with the provisions of this Chapter.

(5) 'Municipality' shall mean a city, town or other unit of municipal government created under the laws of the State, or any board, agency, or commission thereof, owning a system or facilities for the generation, transmission or distribution of electric power and energy for public and private uses.

(6) 'Project' shall mean any system or facilities for the generation, transmission and transformation, or any of them, of electric power and energy by any means whatsoever including, but not limited to, any one or more electric generating units situated at a particular site.

(7) 'State' shall mean the State of North Carolina.

"§ 159B-4. *Authority of municipalities to jointly cooperate.*-In addition and supplemental to the powers otherwise conferred on municipalities by the laws of the State, and in order to accomplish the purposes of this Chapter and to obtain a supply of electric power and energy for the present and future needs of its inhabitants and customers, a municipality may plan, finance, develop, construct, reconstruct, acquire, improve, enlarge, better, own, operate and maintain an undivided interest as a tenant in common in a project situated within or without the State jointly with one or more other municipalities, or with a joint agency created pursuant to this Chapter, or with municipal corporations or political subdivisions of other states (to the extent permitted by the laws of such other states), and may make such plans and enter into such contracts in connection therewith, not inconsistent with the provisions of this Chapter, as are necessary or appropriate.

Prior to acquiring any such undivided interest the governing board shall determine the needs of the municipality for power and energy based upon engineering studies and reports, and shall not acquire an undivided interest as a tenant in common in a project in excess of that amount of capacity and the energy associated therewith required to provide for its projected needs for power and energy from and after the date the project is estimated to be placed in normal continuous operation and for such reasonable period of time thereafter as shall be determined by the governing board and approved by the North Carolina Utilities Commission in a proceeding instituted pursuant to Section 159B-24 of this Chapter. In determining the future power requirements of a municipality, there shall be taken into account the following:

(1) The economies and efficiencies to be achieved in constructing on a large scale facilities for the generation and transmission of electric power and energy;

(2) The municipality's needs for reserve and peaking capacity and to meet obligations under pooling and reserve sharing agreements reasonably related to its needs for power and energy to which it is or may become a party;

(3) The estimated useful life of such project;

(4) The estimated time necessary for the planning, development, acquisition or construction of such project and the length of time required in advance to obtain, acquire or construct additional power supply; and

(5) The reliability and availability of existing or alternative power supply sources and the cost of such existing or alternative power supply sources.

A determination by such governing board approved by the North Carolina Utilities Commission based upon appropriate findings of the foregoing matters shall be conclusive as to the quantity of the interest which a municipality may acquire in a project unless a party to the proceeding aggrieved by the determination of said Commission shall file notice of appeal pursuant to Article 5 of Chapter 62 of the General Statutes of North Carolina.

Nothing herein contained shall prevent a municipality or municipalities from undertaking studies to determine whether there is a need for a project or whether such project is feasible.

"§ 159B-5. *Joint ownership of a project; provisions of the contract or agreement with respect thereto.*—Each municipality shall own an undivided interest in any project in proportion to the amount of the money furnished or the value of property or other consideration supplied by it for the planning, development, acquisition or construction thereof, and shall be entitled to a percentage share of the output and capacity therefrom equal to such undivided interest.

Each municipality shall be severally liable for its own acts and not jointly or severally liable for the acts, omissions or obligations of others, and no money or property or other consideration supplied by any municipality shall be credited or otherwise applied to the account of any other municipality, nor shall the undivided share of any municipality in a project be charged directly or indirectly with any debt or obligation of any other municipality or be subject to any lien as a result thereof. The acquisition of a project shall include, but shall not be limited to, the purchase or lease of an existing, completed project and the purchase of a project under construction. A municipality participating in the joint planning, financing, construction, reconstruction, acquisition, improvement, enlargement, betterment, ownership, operation or maintenance of any project under this Chapter may furnish money derived solely from the proceeds of bonds or from the ownership and operation of its electric system, or both, and provide property, both real and personal, services and other considerations.

Any contracts entered into by municipalities with respect to joint ownership in a project shall contain such terms, conditions and provisions, not inconsistent with the provisions hereof, as the governing boards of the municipalities shall deem to be in the interests of the municipalities. Any such contracts shall be ratified by resolution of the governing board of each municipality spread upon its minutes. Any such contracts shall include, but shall not be limited to, the following:

(1) The purpose or purposes of the contract;

(2) The duration of the contract;

(3) The manner of appointing or employing the personnel necessary in connection with the project;

(4) The method of financing the project including the apportionment of costs and revenues;

(5) Provisions specifying the ownership interests of the parties in real property used or useful in connection with the project, and the procedures for the disposition of such property when the contract expires, is terminated or when the project, for any reason, is abandoned, decommissioned or dismantled;

(6) Provisions relating to alienation and prohibiting partition of a municipality's undivided interest in a project, which provisions shall not be

subject to any provision of law restricting covenants against alienation or partition;

(7) Provisions for the construction of a project, which may include the determination that one municipality jointly participating or any person, firm or corporation may construct the project as agent for all the parties;

(8) Provisions for the operation and maintenance of a project, which may include the determination that one municipality jointly participating or any person, firm or corporation may operate and maintain the project as agent for all the parties;

(9) Provisions for the creation of a committee of representatives of the municipalities jointly participating with such powers of supervision of the construction and operation of the project as the contract, not inconsistent with the provisions of this Chapter, may provide;

(10) Provisions that if one or more of the municipalities shall default in the performance or discharge of its or their obligations with respect to the project the other party or parties may assume, pro rata, or otherwise, the obligations of such defaulting party or parties and may succeed to such rights and interests of the defaulting party or parties in the project as may be agreed upon in the contract;

(11) Methods for amending the contract;

(12) Methods for terminating the contract; and

(13) Any other necessary or proper matter.

For the purpose of paying its respective share of the cost of a project or projects, a municipality may issue its bonds as provided in this Chapter, and, notwithstanding the provisions of any other law to the contrary, may pledge to the payment of the principal of, premium, if any, and interest on such bonds the revenues, or any portion thereof, derived or to be derived from the ownership and operation of its system or facilities for the generation, transmission, or distribution of electric power or energy or its interest in any joint project or projects, or a combination of such revenues. Provided that all bonds issued under the provisions of this Chapter shall be authorized and issued by the governing board of a city, town, or other unit of municipal government created under the laws of the State.

"§ 159B-6. *Sale of capacity and output by a municipality.*—Capacity or output derived by a municipality from its ownership share of a project not then required by such municipality for its own use and for the use of its consumers may be sold or exchanged by such municipality, for such consideration and for such period and upon such other terms and conditions as may be determined by the parties, to any municipality owning electric distribution facilities in this State, to any electric membership corporation or public utility authorized to do business in this State, or to any state, federal or municipal agency which owns electric generation, transmission or distribution facilities. Provided, however, that the foregoing limitations shall not apply to the temporary sale of excess capacity and energy without the State in cases of emergency or when required to fulfill obligations under any pooling or reserve sharing agreements reasonably related to its needs for power and energy. Provided further, however, that sales of excess capacity or output of a project to electric membership corporations, public utilities, and other persons the interest on whose securities and other obligations is not exempt from taxation by the federal government shall not be made in such amounts, for such periods of time, and under such terms and

conditions as will cause the interest on bonds issued to finance the cost of a project to become taxable by the federal government.

"§ 159B-7. *Licenses, permits, certificates and approvals.*—Municipalities proposing to jointly plan, finance, develop, own and operate a project are hereby authorized, either jointly or separately, to apply to the appropriate agencies of the State, the United States, or any state thereof, and to any other proper agency for such licenses, permits, certificates or approvals as may be necessary, and to construct, maintain and operate projects in accordance with such licenses, permits, certificates or approvals and to obtain, hold and use such licenses, permits, certificates and approvals in the same manner as any other operating unit of any other person.

"§ 159B-8. *Authority to contract with respect to exchange, wheeling, pooling and transmission.*—Municipalities participating in a joint project or projects are hereby authorized to enter into contracts for the exchange, interchange, wheeling, pooling and transmission of electric power and energy produced by such project or projects with any municipality of this State or any other state owning electric distribution facilities, any electric membership corporation, or any public utility, or any state, federal or municipal agency which owns electric generation, transmission or distribution facilities in this State or any other state.

"§ 159B-9. *Creation of joint agencies; board of commissioners.*—(a) The governing boards of two or more municipalities may by resolution or ordinance determine that it is in the best interests of the municipalities in accomplishing the purposes of this Chapter to create a joint agency as prescribed herein for the purpose of undertaking the planning, financing, development, acquisition, construction, reconstruction, improvement, enlargement, betterment, operation and maintenance of a project or projects to supply electric power and energy for their present or future needs as an alternative or supplemental method of obtaining the benefits and assuming the responsibilities of ownership in a project.

In determining whether or not the creation of a joint agency for such purpose is in the best interests of the municipalities, the governing boards shall take into consideration, but shall not be limited to, the following:

(1) Whether or not a separate entity may be able to finance the cost of projects in a more efficient and economical manner;

(2) Whether or not better financial market acceptance may result if one entity is responsible for issuing all of the bonds required for a project or projects in a timely and orderly manner and with a uniform credit rating instead of multiple entities issuing separate issues of bonds;

(3) Whether or not savings and other advantages may be obtained by providing a separate entity responsible for the acquisition, construction, ownership and operation of a project or projects; and

(4) Whether or not the existence of such a separate entity will foster the continuation of joint planning and undertaking of projects, and the resulting economies and efficiencies to be derived from such joint planning and undertaking.

If each governing board shall determine that it is in the best interests of the municipality to create a joint agency to provide power and energy to the municipality as provided in this Chapter, each shall adopt a resolution or ordinance so finding (which need not prescribe in detail the basis for the

determination), and which shall set forth the names of the municipalities which are proposed to be initial members of the joint agency, and shall cause notice of such determination to be given to the presiding officer of the governing board of the municipality who shall thereupon appoint in writing one commissioner of the joint agency.

Any two or more commissioners so named may file with the Secretary of State an application signed by them setting forth (i) the names of all the proposed member municipalities; (ii) the name and official residence of each of the commissioners so far as known to them; (iii) a certified copy of the appointment evidencing their right to office; (iv) a statement that each governing board of each respective municipality appointing a commissioner has made the aforesaid determination; (v) the desire that a joint agency be organized as a public body and a body corporate and politic under this Chapter; and (vi) the name which is proposed for the joint agency.

The application shall be subscribed and sworn to by such commissioners before an officer or officers authorized by the laws of the State to administer and certify oaths.

The Secretary of State shall examine the application and, if he finds that the name proposed for the joint agency is not identical with that of any other corporation of this State or of any agency or instrumentality thereof, or so nearly similar as to lead to confusion and uncertainty, he shall receive and file it and shall record it in an appropriate book of record in his office.

When the application has been made, filed and recorded as herein provided, the joint agency shall constitute a public body and a body corporate and politic under the name proposed in the application. The Secretary of State shall make and issue to the commissioners executing the application a certificate of incorporation pursuant to this Chapter under the seal of the State, and shall record the same with the application. The certificate shall set forth the names of the member municipalities.

In any suit, action or proceeding involving the validity or enforcement of, or relating to, any contract of the joint agency, the joint agency, in the absence of establishing fraud in the premises, shall be conclusively deemed to have been established in accordance with the provisions of this Chapter upon proof of the issuance of the aforesaid certificate by the Secretary of State. A copy of such certificate, duly certified by the Secretary of State, shall be admissible in evidence in any such suit, action or proceeding, and shall be conclusive proof of the filing and contents thereof.

Notice of the issuance of such certificate shall be given to all of the proposed member municipalities by the Secretary of State. If a commissioner of any such municipality has not signed the application to the Secretary of State and such municipality does not notify the Secretary of State of the appointment of a commissioner within forty (40) days after receipt of such notice, such municipality shall be deemed to have elected not to be a member of the joint agency. As soon as practicable after the expiration of such forty (40) day period, the Secretary of State shall issue a new certificate of incorporation, if necessary, setting forth the names of those municipalities which have elected to become members of the joint agency. The failure of any proposed member to become a member shall not affect the validity of the corporate existence of the joint agency.

(b) After the creation of a joint agency, any other municipality may become a member thereof upon application to such joint agency after the adoption of a resolution or ordinance by the governing board of the municipality setting forth the determination and finding prescribed in paragraph (a) of this Section 159B-9, and authorizing said municipality to participate, and with the unanimous consent of the members of the joint agency evidenced by the resolutions of their respective governing bodies. Any municipality may withdraw from a joint agency, provided, however, that all contractual rights acquired and obligations incurred while a municipality was a member shall remain in full force and effect.

(c) The joint agency shall consist of a board of commissioners appointed by the respective governing boards of the municipalities which are members of the joint agency. Each municipality shall appoint one commissioner who may, at the discretion of the municipality, be an officer or employee of the municipality, the appointment to be made by resolution or ordinance. Each commissioner shall have not less than one vote and may have in addition thereto such additional votes as the members of the joint agency shall determine. Each commissioner shall serve at the pleasure of the governing board by which he was appointed. Each appointed commissioner before entering upon his duties shall take and subscribe to an oath before some person authorized by law to administer oaths to execute the duties of his office faithfully and impartially, and a record of each such oath shall be filed with the governing board of the appointing municipality and spread upon its minutes.

(d) The board of commissioners of the joint agency shall annually elect one of the commissioners as chairman, another as vice-chairman, and another person or persons, who may but need not be commissioners, as treasurer, secretary, and, if desired, assistant secretary. The office of treasurer may be held by the secretary or assistant secretary. The board of commissioners may also appoint such additional officers as it deems necessary. The secretary or assistant secretary of the joint agency shall keep a record of the proceedings of the joint agency, and the secretary shall be the custodian of all records, books, documents and papers filed with the joint agency, the minute book or journal of the joint agency and its official seal. Either the secretary or the assistant secretary of the joint agency may cause copies to be made of all minutes and other records and documents of the joint agency and may give certificates under the official seal of the joint agency to the effect that such copies are true copies, and all persons dealing with the joint agency may rely upon such certificates.

(e) A majority of the commissioners of a joint agency then in office shall constitute a quorum. A vacancy in the board of commissioners of the joint agency shall not impair the right of a quorum to exercise all the rights and perform all the duties of the joint agency. Any action taken by the joint agency under the provisions of this Chapter may be authorized by resolution at any regular or special meeting, and each such resolution shall take effect immediately and need not be published or posted. A majority of the votes which the commissioners present are entitled to cast shall be necessary and sufficient to take any action or to pass any resolution, provided that such commissioners present are entitled to cast a majority of the votes of all commissioners of the board.

(f) No commissioner of a joint agency shall receive any compensation for the performance of his duties hereunder, provided, however, that each

commissioner may be paid his necessary expenses incurred while engaged in the performance of such duties.

"§ 159B-10. *Executive committee-composition, powers and duties, terms.*—The board of commissioners of a joint agency may create an executive committee of the board of commissioners. The board may provide for the composition of the executive committee so as to afford, in its judgment, fair representation of the member municipalities. The executive committee shall administer the business of the board of commissioners during intervals between the board's meetings in accordance with its rules, motions or resolutions. The terms of office of the members of the executive committee and the method of filling vacancies therein shall be fixed by the rules of the board of commissioners of the joint agency.

"§ 159B-11. *General powers of joint agencies.*—Each joint agency shall have all of the rights and powers necessary or convenient to carry out and effectuate the purposes and provisions of this Chapter, including, but without limiting the generality of the foregoing, the rights and powers:

(1) To adopt by-laws for the regulation of the affairs and the conduct of its business, and to prescribe rules, regulations and policies in connection with the performance of its functions and duties;

(2) To adopt an official seal and alter the same at pleasure;

(3) To maintain an office at such place or places as it may determine;

(4) To sue and be sued in its own name, and to plead and be impleaded;

(5) To receive, administer and comply with the conditions and requirements respecting any gift, grant or donation of any property or money;

(6) To acquire by purchase, lease, gift, or otherwise, or to obtain options for the acquisition of, any property, real or personal, improved or unimproved, including an interest in land less than the fee thereof;

(7) To sell, lease, exchange, transfer or otherwise dispose of, or to grant options for any such purposes with respect to, any real or personal property or interest therein;

(8) To pledge or assign any money, rents, charges, or other revenues and any proceeds derived by the joint agency from the sales of property, insurance or condemnation awards;

(9) To issue bonds of the joint agency for the purpose of providing funds for any of its corporate purposes;

(10) To study, plan, finance, construct, reconstruct, acquire, improve, enlarge, extend, better, own, operate and maintain, one or more projects and to pay all or any part of the costs thereof from the proceeds of bonds of the joint agency or from any other funds made available to the joint agency;

(11) To authorize the construction, operation or maintenance of any project or projects by any person, firm or corporation, including political subdivisions and agencies of any state, or of the United States;

(12) To acquire by lease, purchase or otherwise an existing project or a project under construction;

(13) To sell or otherwise dispose of any project or projects;

(14) To fix, charge and collect rents, rates, fees and charges for electric power or energy and other services, facilities and commodities sold, furnished or supplied through any project;

(15) To generate, produce, transmit, deliver, exchange, purchase, or sell for resale only, electric power or energy, and to enter into contracts for any or all such purposes;

(16) To negotiate and enter into contracts for the purchase, sale, exchange, interchange, wheeling, pooling, transmission or use of electric power and energy with any municipality in this State or any other state owning electric distribution facilities, any electric membership corporation, any public utility, and any state, federal or municipal agency which owns electric generation, transmission or distribution facilities in this State or any other state;

(17) To make and execute contracts and other instruments necessary or convenient in the exercise of the powers and functions of the joint agency under this Chapter, including contracts with persons, firms, corporations and others;

(18) To apply to the appropriate agencies of the State, the United States or any state thereof, and to any other proper agency for such permits, licenses, certificates or approvals as may be necessary, and to construct, maintain and operate projects in accordance with such licenses, permits, certificates or approvals, and to obtain, hold and use such licenses, permits, certificates and approvals in the same manner as any other person or operating unit of any other person;

(19) To employ engineers, architects, attorneys, real estate counselors, appraisers, financial advisors and such other consultants and employees as may be required in the judgment of the joint agency and to fix and pay their compensation from funds available to the joint agency therefor; and

(20) To do all acts and things necessary, convenient or desirable to carry out the purposes, and to exercise the powers granted to the joint agency herein.

No joint agency shall undertake any project required to be financed, in whole or in part, with the proceeds of bonds without the approval of a majority of its members. Before undertaking any project, a joint agency shall, based upon engineering studies and reports, determine that such project is required to provide for the projected needs for power and energy of its members from and after the date the project is estimated to be placed in normal and continuous operation and for a reasonable period of time thereafter. Prior to or simultaneously with granting a certificate of public convenience and necessity for any such project the North Carolina Utilities Commission, in a proceeding instituted pursuant to Section 159B-24 of this Chapter, shall approve such determination. In determining the future power requirements of the members of a joint agency, there shall be taken into account the following:

(1) The economies and efficiencies to be achieved in constructing on a large scale facilities for the generation and transmission of electric power and energy;

(2) Needs of the joint agency for reserve and peaking capacity and to meet obligations under pooling and reserve sharing agreements reasonably related to its needs for power and energy to which the joint agency is or may become a party;

(3) The estimated useful life of such project;

(4) The estimated time necessary for the planning, development, acquisition, or construction of such project and the length of time required in advance to obtain, acquire or construct additional power supply for the members of the joint agency;

(5) The reliability and availability of existing alternative power supply sources and the cost of such existing alternative power supply sources.

A determination by the joint agency approved by the North Carolina Utilities Commission based upon appropriate findings of the foregoing matters shall be conclusive as to the appropriateness of a project to provide the needs of the members of a joint agency for power and energy unless a party to the proceeding aggrieved by the determination of said Commission shall file notice of appeal pursuant to Article V of Chapter 62 of the General Statutes of North Carolina.

Nothing herein contained shall prevent a joint agency from undertaking studies to determine whether there is a need for a project or whether such project is feasible.

"§ 159B-12. *Sale of capacity and output by a joint agency.*—Any municipality which is a member of the joint agency may contract to buy from the joint agency power and energy required for its present or future requirements, including the capacity and output of one or more specified projects. As the creation of a joint agency is an alternative method whereby a municipality may obtain the benefits and assume the responsibilities of ownership in a project, any such contract may provide that the municipality so contracting shall be obligated to make the payments required by the contract whether or not a project is completed, operable or operating and notwithstanding the suspension, interruption, interference, reduction or curtailment of the output of a project or the power and energy contracted for, and that such payments under the contract shall not be subject to any reduction whether by offset or otherwise, and shall not be conditioned upon the performance or nonperformance of the joint agency or any other member of the joint agency under the contract or any other instrument. Any contract with respect to the sale or purchase of capacity or output of a project entered into between a joint agency and its member municipalities may also provide that if one or more of such municipalities shall default in the payment of its or their obligations with respect to the purchase of said capacity or output, then in that event the remaining member municipalities which are purchasing capacity and output under the contract shall be required to accept and pay for and shall be entitled proportionately to and may use or otherwise dispose of the capacity or output which was to be purchased by the defaulting municipality.

Notwithstanding the provisions of any other law to the contrary, any such contracts with respect to the sale or purchase of capacity, output, power or energy from a project may extend for a period not exceeding fifty (50) years from the date a project is estimated to be placed in normal continuous operation; and the execution and effectiveness thereof shall not be subject to any authorizations or approvals by the State or any agency, commission or instrumentality or political subdivision thereof except as in this Chapter specifically required and provided.

Payments by a municipality under any contract for the purchase of capacity and output from a joint agency shall be made solely from the revenues derived from the ownership and operation of the electric system of said municipality and any obligation under such contract shall not constitute a legal or equitable pledge, charge, lien, or encumbrance upon any property of the municipality or upon any of its income, receipts, or revenues, except the revenues of its electric system, and neither the faith and credit nor the taxing power of the municipality are, or may be, pledged for the payment of any obligation under any such contract. A municipality shall be obligated to fix, charge and collect

rents, rates, fees and charges for electric power and energy and other services, facilities and commodities, sold, furnished or supplied through its electric system sufficient to provide revenues adequate to meet its obligations under any such contract and to pay any and all other amounts payable from or constituting a charge and lien upon such revenues, including amounts sufficient to pay the principal of and interest on general obligation bonds heretofore or hereafter issued by the municipality for purposes related to its electric system.

Any municipality which is a member of a joint agency may furnish the joint agency with money derived solely from the ownership and operation of its electric system or facilities and provide the joint agency with personnel, equipment and property, both real and personal. Any municipality may also provide any services to a joint agency.

Any member of a joint agency may contract for, advance or contribute funds derived solely from the ownership and operation of its electric system or facilities to a joint agency as may be agreed upon by the joint agency and the member, and the joint agency shall repay such advances or contributions from proceeds of bonds, from operating revenues or from any other funds of the joint agency, together with interest thereon as may be agreed upon by the member and the joint agency.

"§ 159B-13. *Sale of excess capacity and output by a joint agency.*—A joint agency may sell or exchange the excess capacity or output of a project not then required by any of its members for such consideration and for such period and upon such other terms and conditions as may be determined by the parties to any municipality owning electric distribution facilities in this State, to any electric membership corporation or public utility authorized to do business in this State, or to any state, federal or municipal agency which owns electric generation, transmission or distribution facilities. Provided, however, that the foregoing limitations shall not apply to the temporary sale of excess capacity and energy without the State in cases of emergency or when required to fulfill obligations under any pooling or reserve sharing agreements. Provided further, however, that sales of excess capacity or output of a project to electric membership corporations, public utilities, and other persons the interest on whose securities and other obligations is not exempt from taxation by the federal government shall not be made in such amounts, for such periods of time, and under such terms and conditions as will cause the interest on bonds issued to finance the cost of a project to become taxable by the federal government.

"§ 159B-14. *Bonds of a joint agency.*—A joint agency may issue its bonds pledging to the payment thereof as to both principal and interest the revenues or any portion thereof, derived or to be derived from all or any of its projects, and any additions and betterments thereto or extensions thereof, or contributions or advances from its members. Bonds of a joint agency shall be authorized by a resolution adopted by its governing board and spread upon its minutes.

"§ 159B-15. *Issuance of bonds.*—(a) Each municipality and joint agency is hereby authorized to issue at one time or from time to time its bonds for the purpose of paying all or any part of the cost of any of the purposes herein authorized. The principal of, premium, if any, and the interest on such bonds shall be payable solely from the respective funds herein provided for such payment. The bonds of each issue shall bear interest at such rate or rates as may be determined by the Local Government Commission of North Carolina with the approval of the issuer. The bonds of each issue shall be dated and shall

mature in such amounts and at such time or times, not exceeding 50 years from their respective date or dates, as may be determined by the governing board of the issuer, and may be made redeemable before maturity at such price or prices and under such terms and conditions as may be fixed by the governing board of the issuer prior to the issuance of the bonds. The governing board of the issuer shall determine the form and the manner of execution of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the State. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bond, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. The governing board of the issuer may also provide for the authentication of the bonds by a trustee or fiscal agent. The bonds may be issued in coupon or in fully registered form, or both, as the governing board of the issuer may determine, and provisions may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest, and for the interchange of registered and coupon bonds.

(b) The proceeds of the bonds of each issue shall be used solely for the purposes for which such bonds have been issued, and shall be disbursed in such manner and under such restrictions, if any, as the governing board of the issuer may provide in the resolution authorizing the issuance of such bonds or in any trust agreement securing the same. The municipality or joint agency may issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The municipality or joint agency may also provide for the replacement of any bonds which shall have become mutilated or shall have been destroyed or lost.

(c) Bonds may be issued under the provisions of this Chapter without obtaining, except as otherwise expressly provided in Section 159B-24 of this Chapter, the consent of the State or of any political subdivision, or of any agency, commission or instrumentality of either thereof, and without any other approvals, proceedings or the happening of any conditions or things other than those approvals, proceedings, conditions or things which are specifically required by this Chapter and the provisions of the resolution authorizing the issuance of such bonds or the trust agreement securing the same.

"§ 159B-16. *Resolution or trust agreement.*—In the discretion of the governing board of the issuer, any bonds issued under the provisions of this Chapter may be secured by a trust agreement by and between the issuer and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the State. Such trust agreement or the resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders and of the trustee as may be reasonable and proper and not in violation of law, and may restrict the individual right of action by bondholders. The trust agreement or the resolution providing for the issuance of such bonds may contain covenants including, but not limited to, the following:

1. The pledge of all or any part of the revenues derived or to be derived from the project or projects to be financed by the bonds or from the electric system or facilities of a municipality or a joint agency.

2. The rents, rates, fees and charges to be established, maintained, and collected, and the use and disposal of revenues, gifts, grants and funds received or to be received by the municipality or joint agency.

3. The setting aside of reserves and the investment, regulation and disposition thereof.

4. The custody, collection, securing, investment, and payment of any moneys held for the payment of bonds.

5. Limitations or restrictions on the purposes to which the proceeds of sale of bonds then or thereafter to be issued may be applied.

6. Limitations or restrictions on the issuance of additional bonds; the terms upon which additional bonds may be issued and secured; or the refunding of outstanding or other bonds.

7. The procedure, if any, by which the terms of any contract with bondholders may be amended, the percentage of bonds the bondholders of which must consent thereto, and the manner in which such consent may be given.

8. Events of default and the rights and liabilities arising thereupon, the terms and conditions upon which bonds issued under this Chapter shall become or may be declared due before maturity, and the terms and conditions upon which such declaration and its consequences may be waived.

9. The preparation and maintenance of a budget.

10. The retention or employment of consulting engineers, independent auditors, and other technical consultants.

11. Limitations on or the prohibition of free service to any person, firm or corporation, public or private.

12. The acquisition and disposal of property, provided that no project or part thereof shall be mortgaged by such trust agreement or resolution.

13. Provisions for insurance and for accounting reports and the inspection and audit thereof.

14. The continuing operation and maintenance of the project.

"§ 159B-17. *Revenues.*—(a) A municipality is hereby authorized to fix, charge and collect rents, rates, fees and charges for electric power and energy and other services, facilities and commodities sold, furnished or supplied through the facilities of its electric system or its interest in any joint project. For so long as any bonds of a municipality are outstanding and unpaid, the rents, fees and charges shall be so fixed as to provide revenues sufficient to pay all costs of and charges and expenses in connection with the proper operation and maintenance of its electric system, and its interest in any joint project, and all necessary repairs, replacements or renewals thereof, to pay when due the principal of, premium, if any, and interest on all bonds and other evidences of indebtedness payable from said revenues, to create and maintain reserves as may be required by any resolution or trust agreement authorizing and securing bonds, to pay when due the principal of, premium, if any, and interest on all general obligation bonds heretofore or hereafter issued to finance additions, improvements and betterments to its electric system, and to pay any and all amounts which the municipality may be obligated to pay from said revenues by law or contract.

(b) A joint agency is hereby authorized to fix, charge, and collect rents, rates, fees and charges for electric power and energy and other services, facilities and

commodities sold, furnished or supplied through the facilities of its projects. For so long as any bonds of a joint agency are outstanding and unpaid, the rents, rates, fees and charges shall be so fixed as to provide revenues sufficient to pay all costs of and charges and expenses in connection with the proper operation and maintenance of its projects, and all necessary repairs, replacements or renewals thereof, to pay when due the principal of, premium, if any, and interest on all bonds and other evidences of indebtedness payable from said revenues, to create and maintain reserves as may be required by any resolution or trust agreement authorizing and securing bonds, and to pay any and all amounts which the joint agency may be obligated to pay from said revenues by law or contract.

(c) Any pledge made by a municipality or joint agency pursuant to this Chapter shall be valid and binding from the date the pledge is made. The revenues, securities, and other moneys so pledged and then held or thereafter received by the municipality or joint agency or any fiduciary shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of the pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the municipality or joint agency without regard to whether such parties have notice thereof. The resolution or trust agreement or any financing statement, continuation statement or other instrument by which a pledge is created need not be filed or recorded in any manner.

"§ 159B-18. *Trust funds.*—Notwithstanding any other provisions of law to the contrary, all moneys received pursuant to the authority of this Chapter, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this Chapter. The resolution authorizing the bonds of any issue or the trust agreement securing such bonds may provide that any of such moneys may be temporarily invested and reinvested pending the disbursements thereof in such securities and other investments as shall be provided in such resolution or trust agreement, and shall provide that any officer with whom, or any bank or trust company with which, such moneys shall be deposited shall act as trustee of such moneys and shall hold and apply the same for the purposes hereof, subject to such regulation as this Chapter and such resolution or trust agreement may provide.

"§ 159B-19. *Remedies.*—Any holder of bonds issued under the provisions of this Chapter or any of the coupons appertaining thereto, and the trustee under any trust agreements, except to the extent the rights herein given may be restricted by such trust agreement or the resolution authorizing the issuance of such bonds, may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights under the laws of the State or granted hereunder, or, to the extent permitted by law, under such trust agreement or resolution authorizing the issuance of such bonds or under any agreement or other contract executed by the municipality or joint agency pursuant to this Chapter, and may enforce and compel the performance of all duties required by this Chapter or by such trust agreement or resolution to be performed by any joint agency or municipality or by any officer thereof, including the fixing, charging and collecting of rents, rates, fees and charges.

"§ 159B-20. *Status of bonds under Uniform Commercial Code.*—Whether or not the bonds and interest coupons appertaining thereto are of such form and character as to be investment securities under Article 8 of the Uniform Commercial Code as enacted in this State, all bonds and interest coupons

appertaining thereto issued under this Article are hereby made investment securities within the meaning of and for all the purposes of Article 8 of the Uniform Commercial Code as enacted in this State, subject only to the provisions of the bonds pertaining to registration.

"§ 159B-21. *Bonds eligible for investment.*—Bonds issued by a municipality or joint agency under the provisions of this Chapter are hereby made securities in which all public officers and agencies of the State and all political subdivisions, all insurance companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any officer or agency of the State or any political subdivision for any purpose for which the deposit of bonds or obligations of the State or any political subdivision is now or may hereafter be authorized by law.

"§ 159B-22. *Agreement of the State.*—The State does hereby covenant and agree with the holders of any bonds that so long as any bonds of a municipality or joint agency are outstanding and unpaid the State will not limit or alter the rights vested in such municipality or joint agency to acquire, construct, reconstruct, improve, enlarge, better, extend, own, operate and maintain its electric system or any project or interest therein, as the case may be, or to establish, maintain, revise, charge, and collect the rents, rates, fees and charges referred to in this Chapter and to fulfill the terms of any agreements made with the holders of the bonds or in any way impair the rights and remedies of the bondholders, until the bonds, together with interest thereon, interest on any unpaid installment of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of the bondholders, are fully paid, met and discharged.

"§ 159B-23. *Limited liability.*—The bonds shall be special obligations of the municipality or joint agency issuing them. The principal of, premium, if any, and interest on the bonds shall not be payable from the general funds of the municipality or joint agency, nor shall they constitute a legal or equitable pledge, charge, lien, or encumbrance upon any of its property or upon any of its income, receipts, or revenues, except the funds which are pledged under the resolution authorizing the bonds or the trust agreement securing the bonds. Neither the faith and credit nor the taxing power of a municipality or of the State are, or may be, pledged for the payment of the principal of or interest on the bonds, and no holder of the bonds shall have the right to compel the exercise of the taxing power by the State or a municipality or the forfeiture of any of its property in connection with any default thereon. Every bond shall recite in substance that the principal of and interest on the bond is payable solely from the revenues pledged to its payment and that the municipality or joint agency is not obligated to pay the principal or interest except from such revenues.

"§ 159B-24. *Approvals and sale of bonds.*—Prior to the acquisition or the commencement of construction of any project to be financed by the issuance of bonds under the provisions of this Chapter, the participating municipalities or joint agency, as the case may be, shall first obtain a certificate of public convenience and necessity and, in the same proceeding, the approval required by Section 159B-4 hereof, in the case of the participating municipalities, or the approval required by Section 159B-11 hereof, in the case of a joint agency, from

the North Carolina Utilities Commission under such rules, regulations and procedures as the Commission may prescribe.

No municipality or joint agency shall issue any bonds pursuant to this Chapter unless and until, and only to the extent that, the issuance of such bonds is approved by the Local Government Commission. A participating municipality or joint agency shall file with the Secretary of the Local Government Commission an application for commission approval of the issuance of the bonds upon such form as the said Commission may prescribe, which form shall provide for the submission of such information as the Secretary may require concerning the proposed bond issue, the details thereof and the security therefor. Before he accepts the application, the Secretary may require the governing board or its representatives to attend a preliminary conference at which time the Secretary and his deputies may informally discuss the details of the proposed issue and the security therefor.

After an application in proper form has been filed, and after a preliminary conference if one is required, the Secretary shall notify the municipality or joint agency in writing that the application has been filed and accepted for submission to the Commission. The Secretary's statement shall be conclusive evidence that the municipality or joint agency, as the case may be, has complied with the requirements of this section with respect to the filing of an application for approval by the said Local Government Commission.

In determining whether a proposed bond issue shall be approved, the Commission may consider:

(1) The municipality's or joint agency's debt management procedures and policies.

(2) Whether the municipality or joint agency is in default with respect to any of its debt service obligations.

(3) Whether, based upon feasibility reports submitted to it, the probable revenues of the project to be financed or the revenues of the municipality's electric system, as the case may be, will be sufficient to service the proposed bonds.

The Commission may inquire into and give consideration to any other matters that it may believe to have a bearing on whether the issue should be approved except matters which are expressly required by the provisions of this Chapter to be determined by the North Carolina Utilities Commission.

The Commission shall approve the application if, upon the information and evidence it receives, it finds and determines:

(1) That, based upon engineering studies and feasibility reports submitted to it, the principal amount of the proposed bonds will be adequate and not excessive for the proposed purpose of the issue.

(2) That the municipality's or joint agency's debt management procedures and policies are good, or that reasonable assurances have been given that its debt will henceforth be managed in strict compliance with law.

(3) That the requirements of this Chapter with respect to the issuance of the bonds and the details thereof and security therefor have been, or will be, satisfied.

(4) That the issuance of the proposed bonds will effectuate the purposes and policies of this Chapter.

After considering an application, the Local Government Commission shall enter its order either approving or denying the application. An order approving

an issue shall not be regarded as an approval of the legality of the bonds in any respect.

If the Commission enters an order denying the application, the proceedings under this section shall be at an end.

At any time after the Commission approves an application for the issuance of bonds, the governing board of the issuer may adopt a bond resolution or enter into a trust agreement in accordance with the provisions of this Chapter, and may thereafter at one time, or from time to time, issue the bonds as provided herein.

Upon the filing with the Local Government Commission of a resolution of the issuer requesting that its bonds be sold, such bonds may be sold in such manner, either at public or private sale, and for such price as the Local Government Commission shall determine to be for the best interest of the issuer and effectuate best the purposes of this Chapter, provided that such sale shall be approved by the issuer.

Except as herein expressly provided, bonds may be issued and sold under the provisions of this Chapter without obtaining the approval or consent of any other department, division, commission, board, bureau or agency of the State, and without any other proceeding or the happening of any other condition or thing than those proceedings, conditions or things which are specifically required by this Chapter.

"§ 159B-25. *Refunding bonds.*—A municipality or joint agency is hereby authorized to provide by resolution for the issuance of refunding bonds of the municipality or joint agency for the purpose of refunding any bonds then outstanding which shall have been issued under the provisions of this Chapter, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds. The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties and obligations of the municipality or joint agency in respect to the same shall be governed by the provisions of this Chapter which relate to the issuance of bonds, insofar as such provisions may be appropriate therefor.

"§ 159B-26. *Tax exemption.*—Bonds, their transfer and the income therefrom (including any profit made on the sale thereof), shall at all times be free from taxation by the State or any political subdivision or any agency of either thereof, excepting inheritance or gift taxes.

"§ 159B-27. *Taxes; payments in lieu of taxes.*—A project jointly owned by municipalities or owned by a joint agency shall be exempt from property taxes; provided, however, that each municipality possessing an ownership share of a project, and a joint agency owning a project, shall, in lieu of property taxes, pay to any governmental body authorized to levy property taxes the amount which would be assessed as taxes on real and personal property of a project if such project were otherwise subject to valuation and assessment by the State Board of Assessment. Such payments in lieu of taxes shall be due and shall bear interest if unpaid, as in the cases of taxes on other property. Payments in lieu of taxes made hereunder shall be treated in the same manner as taxes for purposes of all procedural and substantive provisions of law. Power and energy derived from a municipality's ownership share in a project and power and energy sold by a joint agency shall be subject to taxes; provided, however, that the tax on power and

energy derived from a municipality's ownership share in a project shall be based on the cost of production and transmission thereof.

Except as herein expressly provided with respect to jointly owned projects or projects owned by a joint agency no other property of a municipality used or useful in the generation, transmission and distribution of electric power and energy shall be subject to payments in lieu of taxes.

"§ 159B-28. *Personnel.*—Personnel employed or appointed by a municipality to work on a joint project or for a joint agency shall have the same authority, rights, privileges and immunities (including coverage under the workmen's compensation laws) which the officers, agents and employees of the appointing municipality enjoy within the territory of that municipality, whether within or without the territory of the appointing municipality, when they are acting within the scope of their authority or in the course of their employment.

Personnel employed or appointed directly by a joint agency or by a non-profit operating agency of the participating municipalities or of the joint agency, shall be qualified for participation in the North Carolina Local Government Employees Retirement System with the same rights, privileges, obligations and responsibilities as they would have if they were employees of a municipality.

"§ 159B-29. *Dissolution of joint agencies.*—Whenever the board of commissioners of a joint agency and the governing boards of its member municipalities shall by resolution or ordinance determine that the purposes for which the joint agency was formed have been substantially fulfilled and that all bonds theretofore issued and all other obligations theretofore incurred by the joint agency have been fully paid or satisfied, such board of commissioners and governing boards may declare the joint agency to be dissolved. On the effective date of such resolution or ordinance, the title to all funds and other property owned by the joint agency at the time of such dissolution shall vest in the member municipalities of the joint agency as provided in this Chapter and the by-laws of the joint agency.

"§ 159B-30. *Annual reports.*—Each joint agency shall, following the closing of each fiscal year, submit an annual report of its activities for the preceding year to the governing boards of its member municipalities and to the North Carolina Utilities Commission. Each such report shall set forth in a form prescribed by the North Carolina Utilities Commission a complete operating and financial statement covering the operations of the joint agency during such year. The joint agency shall cause an audit of its books of record and accounts to be made at least once in each year by certified public accountant(s) and the cost thereof may be treated as a part of the cost of construction of a project or projects, or otherwise as part of the expense of administration of a project covered by such audit.

The municipalities possessing ownership interests in a project shall, following the closing of each fiscal year, submit a consolidated or combined annual report of their activities with respect to such project for the preceding year to the respective governing boards of such municipalities and to the North Carolina Utilities Commission. Each such report shall set forth in a form prescribed by the North Carolina Utilities Commission a complete operating and financial statement covering the operations of the jointly owned project during such year. The municipalities possessing ownership interests in a project shall cause an audit of the books of record and accounts relating to such project to be made at least once in each year by certified public accountant(s) and the cost thereof

may be treated as a cost of construction of the project, or otherwise as part of the expenses of the administration of the project covered by such audit.

"§ 159B-31. *Legislative consent to the application of laws of other states.*—Legislative consent is hereby given (a) to the application of the laws of other states with respect to taxation, payments in lieu of taxes, and the assessment thereof, to any municipality or joint agency created pursuant to this Chapter, which has acquired or has an interest in a project, real or personal, situated without the State, or which owns or operates a project without the State pursuant to this Chapter, and (b) to the application of regulatory and other laws of other states and of the United States to any municipality or joint agency which owns or operates a project without the State.

"§ 159B-32. *Government grants and loans.*—The governing board of any municipality or joint agency is hereby authorized to make application and to enter into contracts for and to accept grants-in-aid and loans from the federal and State governments and their agencies for planning, acquiring, constructing, expanding, maintaining and operating any project or facility, or participating in any research or development program, or performing any function which such municipality or joint agency may be authorized by general or local law to provide or perform.

In order to exercise the authority granted by this section, the governing board of any municipality or joint agency may:

(1) Enter into and carry out contracts with the State or federal government or any agency or institution thereof under which such government, agency or institution grants financial or other assistance to the municipality or joint agency;

(2) Accept such assistance or funds as may be granted or loaned by the State or federal government with or without such a contract;

(3) Agree to and comply with any reasonable conditions which are imposed upon such grants or loans;

(4) Make expenditures from any funds so granted.

"§ 159B-33. *Eminent domain.*—Municipalities participating in a joint project and joint agencies shall possess the power of eminent domain to the extent and in the same manner and under the same laws as municipalities pursuant to Article 11 of Chapter 160A of the General Statutes of North Carolina; provided, however, that a municipality or joint agency exercising the power of eminent domain for a purpose authorized by this Chapter shall have no power to condemn an existing facility used for the generation, transmission or distribution of electric power and energy; provided, further, that the North Carolina Utilities Commission shall have the power and authority to order that the lines and rights-of-way of any public utility or electric membership corporation, municipalities participating in a joint project or any joint agency may be crossed by any municipalities participating in a joint project or any joint agency or that the lines of any municipalities participating in a joint project or any joint agency may be crossed by any public utility or electric membership corporation pursuant to the provisions of G.S. 62-39; provided, further, when any municipalities participating in a joint project, or any joint agency, proposes to condemn the lands or rights-of-way of any public utility, electric membership corporation, municipalities participating in a joint project or any joint agency, or any public utility or electric membership corporation proposes to condemn the lands or rights-of-way of any municipalities participating in a joint project

or any joint agency, not then used for the generation, transmission or distribution of electric power and energy but held for future use or development, the party desiring to condemn shall file a petition with the North Carolina Utilities Commission requesting authority to condemn such lands or rights-of-way. Upon such petition, the North Carolina Utilities Commission shall have the power and authority, after notice and hearing, to order that such lands or rights-of-way, or parts thereof, may be condemned, and its order shall be final, subject to appeal as provided in this section. In all such cases in which the Commission permits condemnation and when the parties affected cannot agree upon the damages to be paid for the lands or rights-of-way to be condemned, it shall be the duty of the Commission to fix the damages, if any, to be paid in such amounts as may be just and equitable. Any party shall have the right of appeal from any final order or decision or determination of the North Carolina Utilities Commission as to matters of crossings and condemnation of property held for future use or development pursuant to the provisions of Article 5 of Chapter 62 of the General Statutes of North Carolina.

"§ 159B-34. *Officers not liable.*—No commissioner of any joint agency or officer of any municipality or person or persons acting in their behalf, while acting within the scope of their authority, shall be subject to any personal liability or accountability by reason of his carrying out any of the powers expressly or impliedly given in this Chapter.

"§ 159B-35. *Additional method.*—The foregoing sections of this Chapter shall be deemed to provide an additional, alternative and complete method for the doing of the things authorized thereby and shall be deemed and construed to be supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing; provided, however, that insofar as the provisions of this Chapter are inconsistent with the provisions of any other general, special or local law, the provisions of this Chapter shall be controlling. Nothing in this act shall be construed to authorize the issuance of bonds for the purpose of financing facilities to be owned by any private corporation."

Sec. 2. If any section of this act or any part of any section, or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect any other section or the remaining part of such section or the application thereof to other persons or circumstances which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Sec. 3. In order to effectuate the purposes and policies prescribed in this act the provisions hereof shall be liberally construed.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of May, 1975.

S. B. 472 **CHAPTER 187**

AN ACT AMENDING THE CHARTER OF THE TOWN OF MURPHY TO CONFORM ITS PROVISIONS TO THE UNIFORM MUNICIPAL ELECTIONS LAW, AND TO RATIFY AND CONFIRM THE ELECTION OF THE MAYOR AND BOARD OF COMMISSIONERS OF THE TOWN OF MURPHY IN NOVEMBER, 1973, FOR TERMS OF OFFICE EXPIRING IN 1977.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 429 of the Session Laws of 1945 is rewritten to read as follows:

"Section 1. The terms of office of the persons elected at the regular municipal election of 1973 and quadrennially thereafter as Mayor and as members of the Board of Town Commissioners of the Town of Murphy shall be four years."

Sec. 2. Section 3 of Chapter 429 of the Session Laws of 1945 is rewritten to read as follows:

"Sec. 3. The election for Mayor and members of the Board of Town Commissioners of the Town of Murphy shall be conducted on a partisan basis pursuant to Articles 23 and 24 of Chapter 163 of the General Statutes of North Carolina."

Sec. 3. Section 4 of Chapter 429 of the Session Laws of 1945 is repealed.

Sec. 4. Chapter 895 of the Session Laws of 1957 is repealed.

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of May, 1975.

S. B. 484 **CHAPTER 188**

AN ACT TO PROVIDE FOR NONPARTISAN PRIMARY AND ELECTION FOR MEMBERS OF THE ROANOKE RAPIDS SANITARY DISTRICT BOARD.

The General Assembly of North Carolina enacts:

Section 1. From and after the ratification of this act, the primary and election for members of the Roanoke Rapids Sanitary District Board shall be nonpartisan as provided in G.S. 130-126. The Sanitary District Board shall not exercise the authority to elect the method of nomination and determining the results of elections as provided in G.S. 163-290.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of May, 1975.

S. B. 495

CHAPTER 189

AN ACT RELATING TO THE BOARD OF TRUSTEES OF THE HAYWOOD COUNTY HOSPITAL.

The General Assembly of North Carolina enacts:

Section 1. Board of Trustees; appointment. From and after the first regular meeting of the Haywood County Board of Commissioners following the date of ratification of this enactment, the Board of Trustees of the Haywood County Hospital shall be eight persons, appointed by the Haywood County Board of Commissioners, being at least one of each sex, and one of whom may be actively engaged in the licensed practice of medicine in Haywood County; the trustees must be of different occupations or professions and not otherwise employed by Haywood County Hospital; no more than two trustees shall reside in the same township; provided, that this restriction as to township shall not apply to a trustee who is actively engaged in the licensed practice of medicine in Haywood County.

At the first regular meeting of the Haywood County Board of Commissioners following the ratification of this enactment, one additional trustee shall be appointed for a term of office to expire on the last Saturday in December, 1978. The seven trustees presently serving on the Board of Trustees of the Haywood County Hospital shall serve the remainder of the terms to which they were originally appointed, or the remaining portion of the unexpired terms to which they were appointed following a vacancy. Successors to those trustees whose terms of office expire in the same year in which county commissioners are elected, shall be appointed only by the incoming board of county commissioners.

Sec. 2. Term of office. The term of office of the members of the Board of Trustees of the Haywood County Hospital who are subsequently appointed following the expiration of the terms presently being served, shall be appointed for a term of four years, provided, that the additional trustee to be hereinafter appointed as provided above, shall serve only until the last Saturday in December, 1978. Upon the expiration of the above terms, all successors shall be appointed for a term of four years.

Sec. 3. Vacancies. All vacancies on the board of trustees shall be filled by the Haywood County Board of Commissioners, and such appointments shall be for the unexpired term of the trustee creating the vacancy, and shall not prevent a trustee from reappointment to a successive term. A trustee may be reappointed for one additional four-year term following consecutively the expiration of the term to which he was originally appointed. Following a minimum of one year of nonservice, an individual may again be appointed to the Board of Trustees of the Haywood County Hospital.

Sec. 4. Meetings; compensation. The Board of Trustees of the Haywood County Hospital shall, at its first meeting in each year, elect a chairman, vice-chairman, and a secretary.

The Board of Trustees shall hold a regular meeting once each month at an announced time and place, and may hold as many additional meetings as it deems necessary.

The chairman of the board of trustees shall receive as compensation the sum of fifteen dollars ($15.00) per meeting, and the members of the board of trustees shall receive ten dollars ($10.00) per meeting. Provided, however, the

chairman and members shall not be compensated for more than one meeting per month.

Sec. 5. Voting. Each person on the Board of Trustees, with the exception of the chairman, shall have one vote. The chairman shall vote only in the case of a tie vote.

Sec. 6. Chapter 255, Session Laws of 1965, and all other laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 7. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of May, 1975.

S. B. 520 **CHAPTER 190**

AN ACT TO AUTHORIZE THE ROBESON COUNTY BOARD OF EDUCATION TO ENTER INTO A LONG-TERM LEASE WITH ROWLAND MEMORIAL PARK, INC., FOR THE RENTAL OF THE ROWLAND MEMORIAL PARK AND TO MAKE CERTAIN IMPROVEMENTS UPON SUCH LEASED LAND.

The General Assembly of North Carolina enacts:

Section 1. For the purpose of increasing athletic and other scholastic benefits to the students in the public school system, the Robeson County Board of Education is authorized to enter into a long-term contract with Rowland Memorial Park, Incorporated, a North Carolina incorporated association, or its assignee, for the lease of that tract of land and structures thereto appurtenant which is known as the Rowland Memorial Park and which is more specifically described as follows:

That tract of land within the Town of Rowland, Robeson County, North Carolina, beginning at a stake at the southeast intersection of Watson and McCormick Streets and runs as the east edge of Watson Street extended five hundred (500) feet to a stake; thence at right angles to Watson Street in an eastern direction five hundred (500) feet to a stake; thence parallel with Watson Street and at right angles to McCormick Street in a northern direction five hundred (500) feet to a stake in the South edge of McCormick Street extended; thence as the south edge of McCormick Street in a western direction five hundred (500) feet to the beginning.

The term of that lease shall not exceed 25 years at a specified rental.

Sec. 2. The Board of Education of Robeson County is authorized and empowered by vote of a majority of the board to enter into contracts for the erection of new improvements, including the installation of a lighting system, and for the repair of any existing building or improvement on the site of the above described tract.

Sec. 3. This act shall become effective upon ratification, and shall apply only to the above described tract of land in Rowland, North Carolina.

In the General Assembly read three times and ratified, this the 2nd day of May, 1975.

H. B. 210 **CHAPTER 191**

AN ACT MAKING IT A CRIME FOR ANY PERSON TO WILLFULLY TRESPASS UPON OR DAMAGE A PUBLIC SCHOOL BUS.

The General Assembly of North Carolina enacts:

Section 1. Article 22 of Chapter 14 of the General Statutes of North Carolina is hereby amended by adding a new section to read as follows:

"§ 14-132.2. *Willfully trespassing upon or damaging a public school bus.*—(a) Any person who shall unlawfully and willfully demolish, destroy, deface, injure, burn or damage any public school bus or public school activity bus shall be guilty of a misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than two years, or both.

(b) Any person who shall enter a public school bus or public school activity bus after being forbidden to do so by the authorized school bus driver in charge thereof, or the school principal to whom the public school bus or public school activity bus is assigned, shall be guilty of a misdemeanor punishable by a fine not to exceed one hundred dollars ($100.00), imprisonment for not more than 30 days, or both.

(c) Any occupant of a public school bus or public school activity bus who shall refuse to leave said bus upon demand of the authorized driver in charge thereof, or upon demand of the principal of the school to which said bus is assigned, shall be guilty of a misdemeanor punishable by a fine not to exceed one hundred dollars ($100.00), imprisonment for not more than 30 days, or both.

(d) Subsection (b) and (c) of this act shall not apply to a child less than 12 years of age, or authorized professional school personnel."

Sec. 2. This act shall become effective on August 1, 1975.

In the General Assembly read three times and ratified, this the 2nd day of May, 1975.

H. B. 469 **CHAPTER 192**

AN ACT TO AMEND G.S. 47-30 TO MAKE HARNETT COUNTY SUBJECT TO THE PROVISIONS OF THE STATE MAPPING REQUIREMENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 47-30(k) of Volume 2A of the 1966 Replacement Volume of the General Statutes is hereby amended on line 3 by deleting the following word and punctuation "Harnett,".

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 2nd day of May, 1975.

H. B. 532 **CHAPTER 193**

AN ACT TO FIX THE COMPENSATION OF THE MEMBERS OF THE BOARD OF GRADED SCHOOL TRUSTEES OF MOORESVILLE, NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. From and after July 1, 1975, the salary of the Chairman of the Board of Education of the Mooresville Board of Graded School Trustees shall be four hundred twenty dollars ($420.00) per annum, payable in 12 monthly installments of thirty-five dollars ($35.00) each.

Sec. 2. From and after July 1, 1975, the salary of each other member of the Board of Education of Mooresville Graded School Trustees shall be three hundred dollars ($300.00) per annum, payable in 12 monthly installments of twenty-five dollars ($25.00) each.

Sec. 3. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 4. This act shall be in full force and effect from and after July 1, 1975.

In the General Assembly read three times and ratified, this the 2nd day of May, 1975.

H. B. 353 **CHAPTER 194**

AN ACT TO AMEND CHAPTER 456 OF THE 1965 SESSION LAWS RELATING TO INCREASING THE TRAVEL ALLOWANCE OF THE MEMBERS OF THE BOARD OF COUNTY COMMISSIONERS AND BOARD OF EDUCATION FOR PENDER COUNTY TO FIFTEEN CENTS PER MILE.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of Chapter 456 of the 1965 Session Laws is amended on line 3 thereof by deleting the words and figures "eight cents (8¢)" and inserting in lieu thereof the words and figures "fifteen cents (15¢)".

Sec. 2. Section 4 of Chapter 456 of the 1965 Session Laws is amended on line 3 thereof by deleting the words and figures "eight cents (8¢)" and inserting in lieu thereof the words and figures "fifteen cents (15¢)".

Sec. 3. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 2nd day of May, 1975.

H. B. 373 **CHAPTER 195**

AN ACT TO PRESCRIBE THE DATES DURING WHICH CANDIDATES FOR ELECTION TO THE ALBEMARLE CITY BOARD OF EDUCATION APPROPRIATELY FILE NOTICE OF THEIR CANDIDACY.

The General Assembly of North Carolina enacts:

Section 1. Candidates for election to the Albemarle City Board of Education must file for election any time after 12:00 noon on the Friday preceding the eighth Saturday before the general election but before 12:00 noon on the Friday preceding the fourth Saturday before the general election.

Sec. 2. All laws and clauses of laws in conflict with this act are repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of May, 1975.

H. B. 512 **CHAPTER 196**

AN ACT RATIFYING PAST COMPENSATION PAID PRIOR TO OCTOBER 1, 1974, TO MEMBERS OF THE UNION COUNTY BOARD OF EDUCATION AND TO PROVIDE FOR THE COMPENSATION OF MEMBERS OF THE UNION COUNTY BOARD OF EDUCATION.

Whereas, for a number of years members of the Union County Board of Education have been compensated in excess of the maximum authorized by statute; and

Whereas, this compensation paid to members of the Union County Board of Education was paid in good faith under the assumption that the board of education, with the approval of the Union County Board of Commissioners, could set the rate of compensation paid to members of the board of education; and

Whereas, it would be unjust and inequitable to require past and present members of the board of education who were compensated in excess of the statutory maximum to reimburse the county since the compensation was paid in good faith and with the approval of the board of county commissioners; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. All compensation paid to members of the Union County Board of Education for services rendered as a member of the board prior to October 1, 1974, is hereby ratified.

Sec. 2. Beginning October 1, 1974, and through and including July 1, 1975, the Chairman of the Union County Board of Education shall receive as compensation one hundred thirty-eight dollars and twelve cents ($138.12) per month; the remaining members of the board of education shall receive as compensation eighty dollars and four cents ($80.04) per month. Beginning July 1, 1975, the Union County Board of Commissioners shall fix the compensation for each member of the Union County Board of Education.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of May, 1975.

H. B. 267 **CHAPTER 197**

AN ACT TO INCREASE THE FEES FOR LICENSES SOLD BY THE WILDLIFE RESOURCES COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-95 is hereby amended by revising the schedule of "License Fees" appearing at the end of the first paragraph to read as follows:

"Nonresident hunting license	$25.00
Nonresident six-day hunting license	20.00
Resident State hunting license	7.50
Resident combination hunting and fishing license	10.00
Resident county hunting license	3.50".

Sec. 2. G.S. 113-95 is further amended by deleting the words and figures "ten dollars ($10.00)" as they appear in the second and third lines of the fourth paragraph (the 36th and 37th lines on page 273 of the 1974 Cumulative Supplement to Volume 3A) and by inserting in lieu thereof the words and figures "five dollars and twenty-five cents ($5.25)".

Sec. 3. G.S. 113-95 is further amended by deleting the words and figures "five dollars ($5.00)" as they appear in the seventeenth line of the fourth paragraph (the 51st line on page 273 of the 1974 Cumulative Supplement to Volume 3A) and by inserting in lieu thereof the words and figures "nine dollars and fifty cents ($9.50)".

Sec. 4. G.S. 113-95 is further amended by deleting the words and figures "six dollars ($6.00)" as they appear in the fifth line of the sixth paragraph (the 13th line on page 274 of the 1974 Cumulative Supplement to Volume 3A) and by inserting in lieu thereof the words and figures "nine dollars and fifty cents ($9.50)".

Sec. 5. G.S. 113-95.2 is hereby amended by rewriting said section to read as follows:

"§ 113-95.2. *Big game hunting license.*—In addition to such hunting licenses as are required by G.S. 113-95, no one may hunt any species of big game without first having procured a big game hunting license which shall be issued to a resident of this State upon payment of a license fee in the sum of three dollars and twenty-five cents ($3.25) plus twenty-five cents (25¢) for the issuing agent, and to a nonresident of this State upon payment of a license fee in the sum of four dollars and fifty cents ($4.50) plus fifty cents (50¢) for the issuing agent. For the purpose of this section 'big game' is defined as deer, bear, wild boar and wild turkey."

Sec. 6. G.S. 113-95.3 is hereby amended by rewriting said section to read as follows:

"§ 113-95.3. *Licenses for disabled veterans.*—Any resident of this State who is a 50% or more disabled war veteran as determined by the Veterans Administration shall be issued a lifetime license for hunting, fishing and trapping as provided in this Chapter, upon payment of the sum of seven dollars and fifty cents ($7.50)."

Sec. 7. Article 7 of Chapter 113 of the General Statutes is hereby amended by inserting a new Section 113-95.5 to read as follows:

"§ 113-95.5. *Bow and arrow hunting license.*—Any person may obtain a license to hunt exclusively with bow and arrow as authorized by G.S. 113-104 on payment of a license fee of four dollars and fifty cents ($4.50) plus fifty cents

(50¢) for the issuing agent. This license shall not relieve the holder thereof from the necessity of purchasing any additional license or permit which may be required for hunting big game, hunting on game lands, or using a bow and arrow as a special device in taking nongame fish."

Sec. 8. Article 7 of Chapter 113 of the General Statutes is hereby amended by inserting a new Section 113-95.6 to read as follows:

"§ 113-95.6. *Sportsman's combination license.*—In lieu of the hunting licenses required by G.S. 113-95, G.S. 113-95.2 and G.S. 113-95.5 and the fishing licenses required by G.S. 113-271 and G.S. 113-272, an applicant may obtain a sportsman's combination license which entitles the holder thereof, during the open seasons and subject to the applicable bag, creel, and possession limits, to hunt with firearms or bow and arrow as authorized by G.S. 113-104 wild animals and birds, including big game, and to fish by means of hook and line in joint and inland fishing waters, including public mountain trout waters, on any lands which are open to hunting and fishing, including game lands. The sportsman's combination license authorized by this section shall be issued upon payment of a license fee in the sum of twenty-four dollars and fifty cents ($24.50) by a resident of this State, or in the sum of forty-nine dollars and fifty cents ($49.50) by a nonresident, plus fifty cents (50¢) for the issuing agent."

Sec. 9. G.S. 113-96 is hereby amended by deleting the words and figures "three dollars ($3.00) as a license fee, and the sum of twenty-five cents (25¢)" as they appear in the third and fourth lines of said section and by inserting in lieu thereof the words and figures "four dollars and fifty cents ($4.50) as a license fee and the sum of fifty cents (50¢)".

Sec. 10. G.S. 113-96 is further amended by deleting the words and figures "four dollars ($4.00) as a license fee and the sum of twenty-five cents (25¢)" as they appear in the seventh and eighth lines of said section and by inserting in lieu thereof the words and figures "nine dollars and fifty cents ($9.50) as a license fee and the sum of fifty cents (50¢)".

Sec. 11. G.S. 113-96 is further amended by deleting the words and figures "twenty-five dollars ($25.00)" as they appear in the fourteenth line of said section and by inserting in lieu thereof the words and figures "fifty-nine dollars and fifty cents ($59.50)".

Sec. 12. G.S. 113-96.1 is hereby amended by rewriting said section to read as follows:

"§ 113-96.1. *Schedule of licenses.*—The several hunting and trapping licenses required and authorized by the preceding G.S. 113-95, G.S. 113-95.2, G.S. 113-95.3, G.S. 113-95.5, G.S. 113-95.6 and G.S. 113-96 are summarized and tabulated as follows:

Nonresident hunting license	$25.00
Nonresident six-day hunting license	20.00
Nonresident landowner's county hunting license	10.00
Resident State hunting license	7.50
Resident combination hunting and fishing license	10.00
Resident county hunting license	3.50
Controlled shooting preserve hunting license	10.00
Resident big game hunting license	3.50
Nonresident big game hunting license	5.00
Bow and arrow hunting license	5.00
Resident sportsman's combination license	25.00

Nonresident sportsman's combination license	50.00
Nonresident trapping license	60.00
Resident State trapping license	10.00
Resident county trapping license	5.00
Lifetime combination licenses:	
Resident 50% or more disabled veteran	7.50
Resident 65 years old	10.00
Resident 70 years old	(No Charge)"

Sec. 13. Article 10 of Chapter 113 of the General Statutes of North Carolina is hereby amended by deleting the words "Department of Natural and Economic Resources" in each case where the same appear in said Article and by inserting in lieu thereof the words "Wildlife Resources Commission".

Sec. 14. G.S. 113-114 is hereby further amended as follows:

(1) By deleting from paragraph (1) the words and figures "twenty-five dollars ($25.00)" and by inserting in lieu thereof the words and figures "thirty dollars ($30.00)";

(2) By deleting from paragraph (2) the words and figures "ten dollars ($10.00)" where the same first appear and by inserting in lieu thereof the words and figures "fifteen dollars ($15.00)";

(3) By deleting from paragraph (3) the words and figures "five dollars ($5.00)" and by inserting in lieu thereof the words and figures "ten dollars ($10.00)"; and

(4) By deleting from paragraph (4) the words and figures "one hundred dollars ($100.00)" and by inserting in lieu thereof the words and figures "one hundred and fifty dollars ($150.00)".

Sec. 15. Subsection (d) of G.S. 113-271 is hereby amended as follows:

(1) By deleting from paragraph (1) the figures "$5.50 ($0.50)" and inserting in lieu thereof the figures "$7.50 (50¢)";

(2) By deleting from paragraph (2) the figures "$7.50 ($0.50)" and inserting in lieu thereof the figures "$10.00 (50¢)";

(3) By deleting from paragraph (3) the figures "$2.50 ($0.25)" and inserting in lieu thereof the figures "$3.50 (25¢)";

(4) By rewriting paragraph (4) to read as follows: "(4) Resident three-day license, $3.00 (25¢). This license is valid only for use on three consecutive days by an individual resident of the State.";

(5) By deleting from paragraph (5) the figures "$9.50 ($0.50)" and inserting in lieu thereof the figures "$12.50 (50¢)";

(6) By rewriting paragraph (6) to read as follows: "(6) Nonresident State three-day license, $5.50 (50¢). This license is valid only for use on three consecutive days by an individual within the State."; and

(7) By deleting paragraph (7) in its entirety.

Sec. 16. Subsection (d) of G.S. 113-272 is hereby amended as follows:

(1) By deleting from paragraph (1) the figures "$2.25 ($0.25)" and inserting in lieu thereof the figures "$3.25 (25¢)"; and

(2) By deleting from paragraph (2) the figures "$4.25 ($0.25)" and inserting in lieu thereof the figures "$6.25 (50¢)".

Sec. 17. Article 21 of Chapter 113 of the General Statutes of North Carolina is hereby amended by inserting a new Section 113-272.1 to read as follows:

"§ 113-272.1. *Sportsman's combination license.*—In lieu of the hook-and-line fishing licenses required by G.S. 113-271 and G.S. 113-272 and the hunting licenses required by G.S. 113-95, G.S. 113-95.2 and G.S. 113-95.5, an applicant may obtain a sportsman's combination license which entitles the holder thereof, during the open seasons and subject to the applicable creel, bag and possession limits, to fish by means of hook and line in joint and inland fishing waters, including public mountain trout waters, and to hunt wild animals and birds, including big game, on any lands which are open to hunting and fishing, including game lands. The sportsman's combination licenses issued by the Wildlife Resources Commission are as follows:

(1) Resident sportsman's combination license, $25.00 (50¢).

(2) Nonresident sportsman's combination license, $50.00 (50¢)."

Sec. 18. All provisions of this act which relate to hunting, trapping and combination licenses shall become effective on August 1, 1975; all provisions of this act which relate exclusively to fishing or fishing licenses, other than combination licenses, shall become effective on January 1, 1976; all other provisions of this act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of May, 1975.

H. B. 531 CHAPTER 198

AN ACT TO AMEND G.S. 76-14 RELATING TO THE FEES OF CAPE FEAR RIVER PILOTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 76-14, as the same now appears in the Cumulative Supplement to Volume 2C of the General Statutes, is hereby rewritten to read as follows:

"§ 76-14. *Rates of pilotage.*—(a) Pilotage charges for vessels, inbound or outbound, shall be based upon the gross tonnage and draft of each vessel in the following general classifications:

(1) Less than 2,000 gross tons	$12.00 per draft ft. (one way)
(2) 2,000 gross tons or more but less than 11,000	$13.50 per draft ft. (one way)
(3) 11,000 gross tons or more but less than 20,000	$15.00 per draft ft. (one way)
(4) 20,000 gross tons or more but less than 29,000	$16.50 per draft ft. (one way)
(5) 29,000 gross tons or more	$18.00 per draft ft. (one way)

(b) The charge for a fraction of a draft foot shall be computed from the next half-foot.

(c) There shall be a minimum of 10 draft feet for each vessel in determining pilotage charges.

(d) The measurement described herein shall be in United States feet and inches and registered gross tons and shall be furnished to the pilot by the master of the vessel or her agent for the purposes of computing pilotage fees.

(e) The charge for towing vessels with a tow shall be the total gross tonnage of all vessels in the tow and the draft will be that of the deepest vessel. The charge for towing vessels with a tow requiring two pilots (one on the towing vessel and one on the vessel in tow) shall be the regular pilotage charge for each vessel.

(f) The Board of Commissioners of Navigation and Pilotage for the Cape Fear River and Bar shall be the sole arbitrators of any question arising concerning any pilotage charges.

(g) Pilotage charges for shifting of vessels shall be as follows:

(1) Less than 5 miles	$ 50.00
(2) 5 miles or more but less than 10	$ 75.00
(3) 10 miles or more but less than 15	$100.00
(4) 15 miles and over	$125.00

A vessel shifting 'dead' (without power) will be charged double the regular shifting fee.

(h) The charge for detention of a pilot on board because of weather conditions preventing the pilot from being removed shall be fifty dollars ($50.00) per day, plus quarters equal to a deck officer, plus first-class transportation cost for a return trip to Wilmington.

(i) All vessels calling at any Cape Fear River port which require pilotage will pay full pilotage charges regardless of the reason for the call."

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 2nd day of May, 1975.

H. B. 552 CHAPTER 199

AN ACT TO AUTHORIZE THE TOWNS OF ANGIER, COATS AND LILLINGTON TO CONVEY WATER FACILITIES TO THE COUNTY OF HARNETT.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding Chapter 160A of the General Statutes or any other provision of law, the boards of commissioners of the incorporated municipalities of Angier, Coats and Lillington within Harnett County are each hereby empowered to lease, sell or transfer, and to convey to the County of Harnett, with or without consideration either at public or private sale, and upon such terms and conditions as each such board shall see fit, any property, real or personal, and any easements, rights-of-way, water rights or other interests in land, now owned by the respective towns and used for the purpose of acquisition, storage and treatment of water.

Nothing herein shall be construed to authorize the lease, sale or transfer of the water distribution system or of any of the water distribution lines of either of the respective towns inside corporate limits in any matter other than as authorized by Chapter 160A of the General Statutes.

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 2nd day of May, 1975.

H. B. 602 CHAPTER 200

AN ACT TO AMEND G.S. 47-30(k) TO DELETE WATAUGA COUNTY SO THAT THE STATE MAPPING REQUIREMENTS WILL APPLY TO WATAUGA COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 47-30(k) as the same appears in the 1974 Cumulative Supplement to Volume 2A of the General Statutes is hereby amended by deleting in line 7 the word "Watauga".

Sec. 2. It is the intent of this act that the provisions of G.S. 47-30 shall apply to Watauga County.

Sec. 3. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 5th day of May, 1975.

H. B. 608 CHAPTER 201

AN ACT TO AMEND CHAPTER 1371 OF THE 1973 SESSION LAWS (SECOND SESSION 1974) RELATING TO THE EMPLOYMENT OF AN ASSISTANT CORONER.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 1371 of the 1973 Session Laws (Second Session 1974) which amends G.S. 152-1 and which applies only to Gaston County is hereby amended by deleting on lines 11 through 13 the sentence beginning with the words "The assistant coroner" and ending with the word "interest."

Sec. 2. This act shall apply only to Gaston County.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of May, 1975.

H. B. 618 CHAPTER 202

AN ACT TO PROVIDE FOR THE FILLING OF VACANCIES IN THE OFFICES OF SHERIFF, COUNTY COMMISSIONERS AND REGISTER OF DEEDS IN BEAUFORT COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 162-5 as the same appears in the 1974 Cumulative Supplement to Volume 3D of the General Statutes is amended by adding a new paragraph at the end thereof to read:

"If a vacancy occurs in the office of sheriff for any reason in Beaufort County, the county executive committee of the political party to which the person causing the vacancy is affiliated shall, prior to the next regular meeting of the board of county commissioners, recommend to the board of county commissioners the name of a qualified voter of the county to fill the vacancy,

and the board of county commissioners shall appoint the person so recommended for the unexpired term."

Sec. 2. G.S. 161-5 is hereby amended by adding a new paragraph at the end thereof to read:

"If a vacancy occurs in the office of the register of deeds of Beaufort County for any reason, the county executive committee of the political party to which the person causing the vacancy is affiliated shall, prior to the next regular meeting of the board of county commissioners, recommend to the board of county commissioners the name of a qualified voter of the county to fill the vacancy, and the board of county commissioners shall appoint the person so recommended for the unexpired term."

Sec. 3. G.S. 153A-27 is hereby amended by adding a new paragraph at the end thereof to read:

"If a vacancy occurs on the Board of County Commissioners of Beaufort County for any reason, the county executive committee of the political party with which the vacating member affiliated shall recommend to the remaining members of the board of county commissioners the name of a person to fill the vacancy. The remaining members of the board of county commissioners shall appoint the person recommended to fill the unexpired term of the vacating member."

Sec. 4. This act shall apply only to Beaufort County.

Sec. 5. All local and special acts in conflict with this act are hereby repealed.

Sec. 6. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of May, 1975.

H. B. 620 CHAPTER 203

AN ACT TO AMEND G.S. 160A-241 SO AS TO AUTHORIZE MUNICIPALITIES AND POLITICAL DIVISIONS OF MUNICIPALITIES TO USE THE PROCEDURE PROVIDED IN ARTICLE 9 OF CHAPTER 136 OF THE GENERAL STATUTES AS SPECIFICALLY AUTHORIZED BY G.S. 136-66.3(c) IN ACQUIRING LANDS, EASEMENTS, PRIVILEGES, RIGHTS-OF-WAY AND OTHER INTERESTS FOR PUBLIC PURPOSES IN THE EXERCISE OF THE POWER OF EMINENT DOMAIN, AND PROVIDING THAT THIS ACT SHALL APPLY ONLY TO THE CITY OF KINSTON.

The General Assembly of North Carolina enacts:

Section 1. Section 160A-241 of the General Statutes of North Carolina is hereby amended by adding at the end thereof a new paragraph to read as follows:

"The procedures provided in Article 9 of Chapter 136 of the General Statutes, as specifically authorized by G.S. 136-66.3(c), shall be applicable in the case of acquisition by a municipal corporation, or a political division thereof, of lands, easements, privileges, rights-of-way, and other interests in real property for sewer lines, water lines, electric power lines, and other utility lines in the exercise of the power of eminent domain; and such municipal corporation, or a political division thereof, seeking to acquire such property of rights or easements therein or thereto shall have the right and authority, at its option and election,

to use the provisions and procedures as authorized and provided in G.S. 136-66.3(c) and Article 9 of Chapter 136 of the General Statutes for any of said purposes without being limited to streets constituting a part of the State Highway System."

Provided, however, that the provisions of this section shall not apply with regard to properties owned by public service corporations as defined in G.S. 160A-243(c) unless the exercise of such power of eminent domain is either consented to by the owner of the property to be acquired by the city or, otherwise, first adjudicated after notice and a hearing that such acquisition will not prevent or unreasonably impair the continued devotion to the public use of such properties and the operation by such public service corporation.

Sec. 2. This act shall apply only to the City of Kinston.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of May, 1975.

H. B. 348 CHAPTER 204

AN ACT TO AMEND G.S. 143-340(18) SO AS TO REQUIRE STATE AGENCIES TO ADOPT WRITTEN GUIDELINES GOVERNING THE ASSIGNMENT OF PARKING SPACES IN STATE-OWNED LOTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-340(18) is hereby amended by adding the following sentences at the end thereof:

"Upon the allocation of parking spaces to any agency pursuant to such rules and regulations, the agency shall adopt written guidelines governing the individual assignment of such parking spaces by the agency. A copy of said guidelines shall be made available for inspection by any person upon request."

Sec. 2. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 5th day of May, 1975.

H. B. 517 CHAPTER 205

AN ACT TO AMEND CHAPTERS 128 AND 135 OF THE GENERAL STATUTES RELATING TO THE RETIREMENT SYSTEMS TO MAKE PROVISION APPLY TO FORMER MEMBERS OF THE LAW ENFORCEMENT OFFICERS' BENEFIT AND RETIREMENT FUND.

The General Assembly of North Carolina enacts:

Section 1. G.S. 128-26(i), as the same appears in the 1974 Supplement to the General Statutes, is hereby amended by adding on line 3 thereof immediately after the expression "G.S. 135-5(f)" and immediately before the word "and" the following words:

"or the rules and regulations of the Law Enforcement Officers' Benefit and Retirement Fund."

Sec. 2. G.S. 135-4(k), as the same appears in the 1974 Supplement to the General Statutes, is hereby amended by adding on line 3 thereof immediately after the expression "G.S. 135-5(f)" and immediately before the word "and" the following words:

"or the rules and regulations of the Law Enforcement Officers' Benefit and Retirement Fund."

Sec. 3. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 5th day of May, 1975.

H. B. 542 CHAPTER 206

AN ACT TO PROVIDE FOR THE SAFETY AND HEALTH OF MINERS IN THE STATE OF NORTH CAROLINA, TO PROVIDE FOR THE ENFORCEMENT AND ADMINISTRATION OF THIS ACT, AND TO PROVIDE AUTHORIZATION TO ENTER INTO AN AGREEMENT BETWEEN THE STATE AND THE FEDERAL GOVERNMENT.

The General Assembly of North Carolina enacts:

Section 1. Short title and legislative purpose. (a) This act shall be known as the Mine Safety and Health Act of North Carolina.

(b) Legislative findings and purpose:

(1) The General Assembly finds that the burden of operators and miners of this State's mines resulting from personal injuries and illnesses arising out of work situations is substantial; that the prevention of these injuries and illnesses is an important objective of the government of this State; that the greatest hope in attaining this objective lies in programs of research, engineering, education, and enforcement, and in earnest cooperation of the federal and state governments, operators, and miners.

(2) The General Assembly of North Carolina declares it to be its purpose and policy through the exercise of its powers to assure so far as possible every worker in North Carolina's mines safe and healthful working conditions and to preserve our human resources:

(i) by encouraging operators and miners in their effort to reduce the number of occupational safety and health hazards in mines and to stimulate and assist operators and miners to institute new programs and to perfect existing programs for providing safe and healthful working conditions through technical assistance and consultation;

(ii) by recognizing that operators and miners have separate but interdependent responsibilities and rights with respect to achieving safe and healthful working conditions;

(iii) by authorizing the commissioner to develop occupational safety and health standards applicable to mines giving consideration to the needs of operators and miners and to adopt standards promulgated from time to time by the federal government;

(iv) by providing occupational health criteria which will assure insofar as practicable that no miner will suffer diminished health, functional capacity, or life expectancy as a result of his work experience in a mine;

(v) by providing education and training programs to increase the number and competence of personnel engaged in the field of occupational safety and health;

(vi) by providing an effective enforcement program which shall include a prohibition against giving advance notice of a mine inspection;

(vii) by providing for appropriate reporting procedures with respect to occupational safety and health which will help achieve the objectives of this act

and accurately describe the nature of the occupational safety and health problems in mines;

(viii) by providing for research and technical assistance in the field of occupational safety and health in mines and by developing innovative methods, techniques, and approaches for dealing with occupational safety and health problems in mines; and

(ix) by authorizing the commissioner to enter into agreements and contracts with public and private agencies, including agencies of the United States government, organizations, and individuals in order to carry out the ends and purposes of this act.

(c) The General Assembly of North Carolina appoints the North Carolina Department of Labor as the designated agency to administer the Mine Safety and Health Act of North Carolina.

Sec. 2. Definitions. In this act, unless the context otherwise requires:

(a) The term "Accident" means an unexpected event resulting in injury to, illness of, or death of a person or persons as a result of mining operations and any mine explosion, mine ignition, mine fire, mine inundation, mine cave-in, or other event which could have readily resulted in serious physical harm.

(b) The term "Advisory Council" shall mean the advisory council or body authorized to be established under this act.

(c) The term "Agent" means any person charged by the operator with responsibility for the operation of all or part of a mine or supervision of the miners in a mine, and for the purposes of this act includes contractors, subcontractors, or independent contractors employed by the operator to perform any work or services at, in, or on the mine.

(d) The term "Commissioner" means the Commissioner of Labor of North Carolina.

(e) The term "Director" means the person authorized under Section 19 of this act and appointed by the commissioner for the purpose of assisting in the administration of this act.

(f) The term "Imminent Danger" means the existence of any condition or practice in a mine which could reasonably be expected to cause death or serious physical harm immediately to any miner if such condition or practice is not abated at once.

(g) The term "Mine" means an area of land and all private ways and roads appurtenant thereto, structures, facilities, machinery, tools, equipment, shafts, slopes, tunnels, excavations, and other property, real or personal, placed or constructed on, under, or above the surface of such land by any person, used in, or to be used in, or resulting from (including the reclamation of mined areas or the storage of materials in mined areas), or to facilitate the work of exploring for, developing of, or extracting by any means or method in such area all minerals, inorganic and organic, from their natural deposits. The term "mine" also includes all mineral processing and milling facilities except those used in the processing of source materials as defined in the Atomic Energy Act of 1954, as amended.

(h) The term "Miner" means any individual, other than an operator or an agent, working in or about a mine.

(i) The term "Operator" means an individual, partnership, association, corporation, firm, subsidiary of a corporation, or other organization owning, operating, leasing, controlling, or supervising a mining operation.

(j) The term "State" means the State of North Carolina.

(k) The term "Repeated Violation" means a violation for which an operator was issued a notice or an order on an inspection and which is found to exist again on the next regular inspection, even though the violation was abated within the time fixed for abatement.

Sec. 3. Coverage. Each mine shall be subject to the provisions of this act, and each operator of such mine shall comply with all standards, rules, regulations, orders, and notices adopted or issued under this act. The operator of such mine shall be responsible for the health and safety of all miners in a mine and shall assure insofar as practicable conditions of work and places of work free from hazards that are causing or are likely to cause death or serious physical harm.

Sec. 4. Safety and health standards. (a) The commissioner shall develop, adopt, revise, and promulgate safety and health standards for the purpose of the protection of life, the promotion of safety and health, and the prevention of "accidents" in mines which are subject to this act. In the development of safety and health standards, the commissioner shall consult with the Advisory Council, interested federal agencies, appropriate representatives of other State agencies, appropriate representatives of mine operators and miners, and other interested persons and organizations whose participation would further the purposes of this act.

(b) In developing and promulgating safety standards pursuant to this section, the commissioner shall include standards with respect to the training of miners in first aid, safety, the proper use of rescue equipment available within mines, and periodic evacuation drills and disaster procedure training.

(c) The Division of Health Services of the Department of Human Resources shall have primary responsibility for research and the recommendation of health standards to the commissioner to effectuate the purposes of this act, and nothing in this subsection shall affect the authority of the commissioner with respect to the promulgation and enforcement of both safety and health standards.

(d) The procedures utilized for the adoption and promulgation of safety and health standards, including notice and public hearings, shall be in accordance with the Administrative Procedure Act of North Carolina as the same appears in Chapter 150A of the General Statutes.

Sec. 5. Modification of safety and health standards. Upon petition by an operator, a representative of miners, or a miner, the commissioner may modify the application of any safety and health standard to a mine if the commissioner determines that an alternative method of protecting the miners will guarantee the same measure of protection afforded the miners by the standard, or will enhance the level of safety and health provided by that standard. Upon receipt of such petition the commissioner shall give public notice thereof and give notice to the operator, the representative of miners, or the miner in the affected mine, as appropriate, and shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing, at the request of such operator, representative of the miners, or miner to enable the operator, the representative of miners, or miner in such mine or any interested party to present information relating to the modification of such standard. The commissioner shall issue a decision incorporating his findings of fact therein and send a copy thereof to the operator, the representative of the

miners, or miner as appropriate. Any such hearing shall be of record and shall be subject to judicial review in accordance with the Administrative Procedure Act of North Carolina as the same appears in Chapter 150A of the General Statutes.

Sec. 6. Advisory Council. (a) The commissioner shall appoint an advisory council consisting of seven members to assist him in the development of safety and health standards for mines which are subject to this act and to advise him on matters relating to safety and health in such mines. Said advisory council shall include three members expressly qualified by experience and affiliation to present the viewpoint of operators of such mines, three persons similarly qualified to present the viewpoint of workers in such mines, and a chairman. The members of the advisory council shall serve at the pleasure of the commissioner and shall have no specific term of office.

(b) The advisory council shall hold not fewer than two meetings during each calendar year, and said meetings shall be open to the public. The commissioner shall furnish to the advisory council such secretarial, clerical, and other services as he deems necessary to conduct its business.

(c) The members of the advisory council shall be compensated for travel expenses and per diem as authorized by the Advisory Budget Commission in accordance with those amounts paid to State boards under Chapter 138 of the General Statutes.

(d) The commissioner may from time to time select representatives of professional organizations of technicians, professional persons specializing in occupational safety and health, and representatives of State agencies who by experience and affiliation are qualified to present the viewpoint of operators of mines and workers in mines to assist the advisory council in performing its duties. Such persons, except State employees, selected for temporary purposes may be paid such per diem and travel expenses for attending meetings as may be fixed by the Advisory Budget Commission and recommended by the commissioner.

Sec. 7. Inspections and investigations. (a) The commissioner through the director shall make as many inspections and investigations in mines each year as are deemed necessary to effectively and accurately fulfill the requirements of:

(1) obtaining, utilizing, and disseminating information relating to health and safety conditions, the causes of "accidents" and causes of illnesses and physical impairments originating in such mines,

(2) gathering information with respect to the necessity for health and safety standards,

(3) determining whether an imminent danger exists,

(4) determining whether or not there is compliance with safety and health standards or with any notice, order, or decision issued under this act.

(5) In carrying out the requirements of (4) of this subsection, no advance notice of an inspection shall be provided to any mine operator, official, miner, representative of the miners, or other person, except that the commissioner or director may authorize the giving of advance notice only when such notice is essential to the effectiveness of the inspection.

(b) For the purpose of making any inspection or investigation under this act, the commissioner or his authorized representative shall have a right of entry to, upon, or through any mine at reasonable times.

(c) For the purpose of making any investigation of any "accident" relating to safety and health in a mine, the commissioner may, after notice, hold

hearings, and may issue subpoenas for the attendance and testimony of persons and the production of relevant documents, and administer oaths in any investigation conducted by him. In case of contumacy or refusal to obey a subpoena served upon any person under this section, the general court of justice, superior court division, of the county in which such person is found or resides or transacts business, upon application by the commissioner and after notice to such person, shall have jurisdiction to determine whether such person shall be punished as for contempt of court.

(d) In the event of an "accident" occurring in a mine, the operator shall notify the commissioner or the director thereof at such time as may be required and shall take appropriate measures to prevent the destruction of any evidence which would assist in investigating the cause or causes thereof. In the event of any "accident" occurring in a mine where rescue and recovery work is necessary, the commissioner through the director shall take whatever action he deems appropriate to protect the life of any person, and he may, if he deems it appropriate, supervise and direct the rescue and recovery activity in such mine.

(e) In the event of any "accident" occurring in a mine, the commissioner through the director may issue such orders as he deems appropriate to insure the safety of any person in the mine, and the operator of such mine shall obtain the approval of the commissioner or his authorized representative in consultation with appropriate federal representatives, when feasible, of any plan to recover any person in the mine or to recover the mine or to return affected areas of the mine to normal.

(f) Whenever any miner or representative of the miners has reasonable grounds to believe that a violation of a safety or health standard exists, or that an imminent danger exists, such miner or representative of the miners may request an inspection by giving notice to the commissioner or the director of such violation or danger. Any such notice shall be reduced to writing, shall set forth with reasonable particularity the grounds for the notice, and shall show the name of the miner, be signed by the miner or representative of the miners, and a copy shall be provided the operator or his agent no later than at the time of inspection, except that, upon request of the person giving such notice, his name and the names of individual miners referred to therein shall not appear in such copy. If, after receipt of such notification, the commissioner finds that there are reasonable grounds to believe a violation may exist, a special inspection shall be made as soon as practicable to determine if, in fact, such violation or danger does exist under the provisions of this act.

(g) At the commencement of any inspection of a mine by the commissioner or his authorized representative, under subsection (a)(3) or subsection (a)(4) of this section, the authorized representative of the miners at the mine at the time of such inspection shall be given an opportunity to accompany the commissioner or his authorized representative on such inspection, to inform the commissioner or his authorized representative of conditions and practices in the mine, without loss or deduction in pay. Where there is no authorized representative of the miners, the commissioner or his authorized representative shall have the right to consult with a reasonable number of miners concerning matters of safety and health in the work place.

Sec. 8. Findings, notices, and orders. (a)(1) If, upon any inspection of a mine, the commissioner or his authorized representative finds that an imminent danger exists, he shall determine the area throughout which such danger exists,

and thereupon shall issue forthwith an order requiring the operator of the mine or his agent to cause immediately all persons, except as provided in subsection (d) of this section, to be withdrawn from, and to be prohibited from entering, such area until the commissioner or his authorized representative determines such imminent danger no longer exists.

(2) If, upon any inspection of a mine, the commissioner or his authorized representative finds that an imminent danger exists with respect to the condition or manner of use of any equipment, machinery, article, or apparatus, he shall thereupon issue an order requiring the operator or his agent to cause immediately such equipment, machinery, article, or apparatus to be withdrawn from, and to be prohibited from, use or operation until the commissioner or his authorized representative determines that such imminent danger no longer exists.

(3) As a result of any investigation of any "accident" or as a result of any other investigation or tests performed, the commissioner or his authorized representative may cause to be withdrawn and prohibited from use or operation in any mine any equipment, machinery, article, or apparatus the use of which is likely to cause serious physical harm or an "accident" until the commissioner or his authorized representative determines that such equipment, machinery, article, or apparatus has been repaired, modified, reconditioned, or altered in such manner that "accidents" or serious physical harm will thereafter be avoided.

(b) If, upon any inspection of a mine, the commissioner or his authorized representative finds that there has been a violation of any safety and health standard but the violation has not created an imminent danger, he shall issue a notice to the operator or his agent fixing a reasonable time for the abatement of the violation. If, upon the expiration of the period as originally fixed or subsequently extended, the commissioner or his authorized representative finds that the violation has not been totally abated, and if he also finds that the period of time should not be further extended, he shall find the extent of the area affected by the violation and shall promptly issue an order requiring the operator of such mine or his agent to cause immediately all persons, except as provided in subsection (d) of this section, to be withdrawn from, and to be prohibited from entering, such area until the commissioner or his authorized representative determines that the violation has been abated.

(c) If, upon any inspection of a mine, the commissioner or his authorized representative finds that there has been a repeated violation of a safety or health standard which could reasonably be expected to result in serious physical harm to any miner, he shall issue forthwith an order requiring the operator of the mine or his agent to cause immediately all persons, except as provided in subsection (d) of this section, to be withdrawn from, and to be prohibited from entering, such area until the commissioner or his authorized representative determines that the violation has been abated.

(d) The following persons may enter, upon approval of the commissioner or his authorized representative, any area of a mine subject to an order issued under this section:

(1) Any person whose presence in such area is necessary, in the judgement of the operator or the commissioner or his authorized representative, to eliminate the condition described in the order;

(2) A public official whose official duties require him to enter such area;

(3) A representative of the miners in such mine who, in the judgement of the operator or the commissioner, or his authorized representative, is qualified to make mine examinations or who is accompanied by such a person and whose presence in such area is necessary for the investigation of the condition described in the order;

(4) A consultant to any of the foregoing.

(e) Notices and orders issued pursuant to this section shall contain a detailed description of the conditions or practices which cause and constitute an imminent danger or a violation of any safety or health standard and where appropriate, a description of the area of the mine from which persons must be withdrawn and prohibited from entering, and a description of the equipment, machinery, article, or apparatus which shall be withdrawn and prohibited from use or operation.

(f) A notice or order issued pursuant to this section may be modified, vacated, or terminated upon review by the commissioner or his authorized representative.

Sec. 9. Issuance and delivery of notices, orders, and decisions. (a) All notices or orders issued under Section 8 shall be in writing, signed by the commissioner or his authorized representative, and shall be given promptly to the operator of the mine.

(b) In order to insure prompt compliance with all notices, orders, or decisions issued under this act, the commissioner or his authorized representative may deliver such notices, orders, or decisions to an agent of the operator, and such agent shall immediately take appropriate measures to insure compliance with such notice, order, or decision.

(c) Each operator of a mine shall file with the commissioner the name and address of such mine and the name and address of the operator of the mine. Any revisions in such names or addresses shall be promptly filed with the commissioner. Each operator of a mine shall designate a responsible official, and shall file the name and address of said official with the commissioner, as the principal officer in charge of safety and health at such mine, and such official shall receive a copy of any notice, order, or decision issued under this act affecting such mine. In any case, where the mine is subject to the control of any person not directly involved in the daily operations of the mine, there shall be filed with the commissioner the name and address of such person and the name and address of a principal official who shall have overall responsibility for the conduct of an effective safety and health program at any mine subject to the control of such person, and such official shall receive a copy of any notice, order, or decision issued affecting any such mine. The mere designation of a safety and health official under this subsection shall not be construed as making such official subject to any penalty under this act.

Sec. 10. Review by the commissioner. (a) An operator issued a notice or order pursuant to the provisions of Sections 8 and 9 of this act may apply to the commissioner for review of the notice or order within 30 days of receipt thereof or within 30 days of its modification.

(1) The applicant, at the same time, shall send a copy of such application to the representative of the miners, if any, in the mine or all affected miners.

(2) Upon a receipt of such application, the commissioner shall cause such investigations to be made as he deems appropriate. Such investigations shall provide an opportunity for a public hearing, at the request of the operator or the

representative of the miners in such mine or affected miners, to enable the operator or the representative of the miners in such mine or affected miners to present information relating to the issuance and continuance of such notice or order or the modification, vacation, or termination thereof.

(3) The operator and the representative of the miners, if any, or affected miners shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to the rules of evidence applicable in the district and superior courts of this State. Interested parties shall have an opportunity to appear, present evidence, and examine witnesses.

(b) Upon receiving the report of such investigation, the commissioner shall make findings of fact, and he shall issue a written decision, incorporating therein an order vacating, affirming, modifying, or terminating any notice or order issued.

(c) In view of the urgent need for prompt decision of matters submitted to the commissioner under this section, action shall be taken as promptly as practicable, consistent with adequate consideration of the issues involved.

(d) All notices and orders issued under this act shall be stayed while such notice or order is under review, except that orders issued under Section 8(a) shall not be stayed.

Sec. 11. Judicial review. Any final order or decision issued by the commissioner under this act shall be subject to judicial review in accordance with the Administrative Procedure Act of North Carolina as the same appears in Chapter 150A of the General Statutes.

Sec. 12. Injunctions. The commissioner through the director may institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order in the superior court of the county in which a mine is located or in which the operator of such mine has his principal office, whenever such operator or his agent (a) violates or fails or refuses to comply with any final order or decision issued under this act, or (b) interferes with, hinders, or delays the commissioner in carrying out the provisions of this act, or (c) refuses to admit the commissioner or his authorized representative to the mine, or (d) refuses to permit the inspection of the mine, or the investigation of an accident or occupational illness occurring in, or connected with, such mine, or (e) refuses to furnish any information or report requested by the commissioner in furtherance of the provisions of this act.

Sec. 13. Mandatory reporting. Under such regulations as he may prescribe, the commissioner shall require that:

(a) Operators of mines which are subject to this act submit, at least annually and at such other times as he deems necessary, and in such form as he may prescribe, reports of "accidents", injuries, occupational disease, and related data, and the commissioner through the director shall compile, analyze, and publish, either in summary or detailed form, the information obtained; and all information, reports, orders, or findings, obtained or issued under this act may be published and released to any interested person, and shall be made available for public inspection.

(b) All "accidents" shall be investigated by the operator or his agent to determine the cause and the means of preventing a recurrence. Records of such "accidents" and investigations shall be kept, and the information shall be made readily available for inspection by the commissioner or his authorized

representative. Such records shall include man-hours worked and shall be reported for periods determined by the commissioner, but at least annually.

(c) The operators of mines which are subject to this act shall notify the commissioner, before starting operations, of the approximate or actual date mine operations will commence. The notification shall include mine name, location, the company name, mailing address, the person in charge, and whether operations will be continuous or intermittent. When any mine subject to this act is closed, the operator shall notify the commissioner of such closure and indicate whether the closure is temporary or permanent.

Sec. 14. Criminal penalties. Any person who (a) willfully violates any standard, order, notice, decision, rule, or regulation issued under authority of this act, and said violation causes death or serious physical harm to another; (b) knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this act or required by any order, notice, or decision issued under this act; (c) knowingly distributes, sells, offers for sale, introduces, or delivers any equipment, machinery, article, or apparatus which is represented as complying with the provisions of this act, or with any specification or regulation of the commissioner applicable to such equipment, machinery, article, or apparatus and knowing it does not so comply, shall be guilty of a misdemeanor and upon conviction thereof be punished for each such offense by a fine of not more than ten thousand dollars ($10,000), or by imprisonment not to exceed 60 days, or both. In any instance in which such offense is committed by a corporation, the officer or authorized representative of such corporation who knowingly permits such offense to be committed shall, upon conviction, be subject to the same fine or imprisonment, or both.

Sec. 15. Rights and duties of miners. (a) Miners shall comply with all safety and health standards and all rules, regulations, or orders issued pursuant to this act which are applicable to their own actions and conduct.

(b) No person shall discharge or in any other way discriminate against or cause to be discharged or discriminated against any miner or any authorized representative of miners by reason of the fact that such miner or representative (A) has notified the commissioner of any alleged violation or danger, (B) has filed, instituted, or caused to be filed or instituted any proceeding under this act, or (C) has testified or is about to testify in any proceeding resulting from the administration or enforcement of the provisions of this act.

(c) Any miner or a representative of miners who believes that he has been discharged or otherwise discriminated against by any person in violation of this section may, within 30 days after such violation occurs, apply to the commissioner for a review of such alleged discharge or discrimination. A copy of the application shall be sent to such person who shall be the respondent. Upon receipt of such application, the commissioner shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a hearing at the request of any party to enable the parties to present information relating to such violation. The parties shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to the rules of evidence applicable in the district and superior courts of this State. Interested persons shall have an opportunity to appear, present evidence, and examine witnesses. Upon receiving the report of such investigation, the commissioner

shall make findings of fact. If he finds that such violation did occur, he shall issue a decision, incorporating an order therein, requiring the person committing such violation to take such affirmative action to abate the violation as the commissioner deems appropriate, including, but not limited to, the rehiring or reinstatement of the miner or representative of miners to his former position with back pay. If he finds that there was no such violation, he shall issue an order denying the application. Such order shall incorporate the commissioner's findings therein. Any order issued by the commissioner under this subsection shall be subject to judicial review in accordance with the Administrative Procedure Act of North Carolina as the same appears in Chapter 150A of the General Statutes. Enforcement of a final order or decision issued under this subsection shall be subject to the provisions of Section 12 of this act.

(d) Whenever an order is issued under this section at the request of the applicant, a sum equal to the aggregate amount of all costs and expenses (including attorney's fees) as determined by the commissioner to have been reasonably incurred by the applicant for, or in connection with, the institution and prosecution of such proceedings, shall be assessed against the person committing such violation.

Sec. 16. Education, training, technical assistance, and research. (a) The commissioner through the director is authorized to develop and conduct expanded programs for the education, training, and technical assistance of operators and miners in the recognition, avoidance, and prevention of accidents or unsafe or unhealthful working conditions and to conduct such research as may be necessary in mines which are subject to this act.

(b) The commissioner is authorized to conduct, directly or by grants, short-term training of personnel engaged in work related to the commissioner's responsibilities under this act.

(c) In carrying out the provisions of this act, the commissioner is authorized to enter into agreements and contracts with, and accept grants from and make grants to, public and private agencies and organizations and individuals.

Sec. 17. State-federal plan. In order to promote sound and effective coordination in State and federal activities within the field covered by this act, the commissioner is hereby authorized to enter into and, from time to time, to amend or terminate a State-federal plan agreement with the federal agency charged with administering laws relating to safety and health in mines.

Sec. 18. Legal representation. It shall be the duty of the Attorney General of North Carolina to represent the Department of Labor in all actions or proceedings in connection with this act.

Sec. 19. Administrative provisions. (a) The commissioner shall appoint a director to assist him in administering the provisions of this act and, through the director, shall have authority to appoint, subject to Chapter 126 of the General Statutes of North Carolina, such officers, engineers, inspectors, and employees as he deems requisite for the administration of this act; and to prescribe powers, duties, and responsibilities of all officers, engineers, inspectors, and employees engaged in the administration of this act.

(b) All persons appointed as representatives of the commissioner shall be qualified by practical experience in mine safety and health administration or practical experience in mining or by experience as a practical mining engineer or by education. All persons so appointed shall be physically able to perform their

duties predicated on their work assignments, and all persons subject to making inspections, investigations, or participating in rescue and recovery work shall be examined prior to their employment and annually thereafter by a physician who shall certify their physical ability to perform their duties in mines subject to this act. The fee for the required annual examination shall be satisfied as recommended by the commissioner.

(c) The commissioner, the director, or any other officer, engineer, inspector, or employee engaged in the administration of this act shall not, upon taking office or being employed, or at any other time during the term of his office or employment, have any affiliation, financial or otherwise, with any operating mining company, operator's association, or labor union.

Sec. 20. Construction of act and severability. This act shall receive a liberal construction to the end that the safety and health of miners in the State may be effectuated and protected. If any provision of this act or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Sec. 21. Effective date. This act shall become effective on January 1, 1976, and thereby repeal Articles 1 and 2 of Chapter 74 of the General Statutes.

In the General Assembly read three times and ratified, this the 5th day of May, 1975.

H. B. 592 CHAPTER 207

AN ACT TO PROVIDE FOR THE RECORDING OF CERTAIN CERTIFICATES UNDER G.S. 1-38.

The General Assembly of North Carolina enacts:

Section 1. Section 1-38(b) of the North Carolina General Statutes is amended to read as follows:

"(b) If

(1) the marking of boundaries on the property by distinctive markings on trees or by the implacement of visible metal or concrete boundary markers in the boundary lines surrounding the property, such markings to be visible to a height of 18 inches above the ground, and

(2) the recording of a map prepared from an actual survey by a surveyor registered under the laws of North Carolina, in the book of maps in the office of the register of deeds in the county where the real property is located, with a certificate attached to said map by which the surveyor certifies that the boundaries as shown by the map are those described in the deed or other title instrument or proceeding from which the survey was made, the surveyor's certificate reciting the book and page or file number of the deed, other title instrument or proceeding from which the survey was made, then the listing and paying of taxes on the real property marked and for which a survey and map have been certified and recorded as provided in subdivisions (1) and (2) above shall constitute prima facie evidence of possession of real property under known and visible lines and boundaries. Maps recorded prior to October 1, 1973 may be qualified under this statute by the recording of certificates prepared in accordance with subdivision (b)(2) above. Such certificates must contain the book and page number where the map is filed, in addition to the information

required by subdivision (b)(2) above, and shall be recorded and indexed in the deed books. When a certificate is filed to qualify such a recorded map, the register of deeds shall make a marginal notation on the map in the following form:

'Certificate filed pursuant to G.S. 1-38(b), book (enter book where filed), page _____'."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of May, 1975.

H. B. 616 CHAPTER 208

AN ACT TO AMEND G.S. 20-4.01(3) RELATING TO CHAUFFEUR'S LICENSE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-4.01(3) as the same appears in the 1974 Cumulative Supplement to Volume 1C of the General Statutes is hereby amended by striking the figures "26,000" appearing in line 6 and inserting in lieu thereof the figures "30,000".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of May, 1975.

H. B. 626 CHAPTER 209

AN ACT TO INCREASE THE AMOUNT PAYABLE IN SUITS AGAINST STATE EMPLOYEES AND TO PROVIDE THAT SUCH COVERAGE IS EXCESS OVER COMMERCIAL LIABILITY INSURANCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-300.6 as the same appears in the 1974 Supplement to Volume 3C of the General Statutes is hereby amended by deleting where they appear the words and figures "twenty thousand dollars ($20,000)" and by inserting in their place the words "the limit provided in the Tort Claims Act".

Sec. 2. G.S. 143-300.6 as the same appears in the 1974 Supplement to Volume 3C of the General Statutes is hereby amended by adding a new section (c) to read as follows:

"(c) The coverage afforded employees and former employees under this Article shall be excess coverage over any commercial liability insurance up to the limit of the Tort Claims Act."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of May, 1975.

H. B. 628 **CHAPTER 210**

AN ACT TO PROVIDE THAT COVERAGE AFFORDED STATE LAW ENFORCEMENT OFFICERS IS EXCESS OVER COMMERCIAL LIABILITY INSURANCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-194 as the same appears in the 1974 Cumulative Supplement to Volume 1C of the General Statutes of North Carolina is hereby amended by adding a new subsection (c) to read as follows:

"(c) The coverage afforded under this Article shall be excess coverage over any commercial liability insurance up to the limit of the Tort Claims Act."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of May, 1975.

H. B. 220 **CHAPTER 211**

AN ACT TO AMEND ARTICLE 4 OF CHAPTER 163 OF THE GENERAL STATUTES RELATING TO THE DISMISSAL OF AN EXECUTIVE SECRETARY OF A COUNTY BOARD OF ELECTIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-35 is amended by rewriting subsection (b) to read as follows:

"(b) Termination of employment. The county board of elections may, by petition signed by a majority of the board, recommend to the executive secretary-director of the State Board of Elections the termination of the employment of the county board's executive secretary. The petition shall clearly state the reasons for termination. Upon receipt of the petition, the executive secretary-director shall forward a copy of same by certified mail, return receipt requested, to the county executive secretary involved. The county executive secretary may reply to said petition within 15 days of receipt thereof. Within 20 days of receipt of the county executive secretary's reply or the expiration of the time period allowed for the filing of said reply, the state executive secretary-director shall render a decision as to the termination or retention of the county executive secretary. The decision of the executive secretary-director of the State Board of Elections shall be final unless such decision shall, within 20 days from the official date on which it was made, be deferred by the State Board of Elections, in which event a public hearing shall be conducted by said State Board or any single member designated by the remaining four members, in the county seat of the county involved. Following the conduct of such public hearing and a decision by the State Board of Elections, the chairman of said Board shall notify the executive secretary-director of the State Board of Elections, in writing, of the decision resulting from the public hearing. If the decision, rendered by the State Board of Elections, results in concurrence with the decision entered by the executive secretary-director, the decision becomes final. If the decision rendered by the Board is contrary to that entered by the executive secretary-director, then the executive secretary-director shall, within 15 days from the written notification, enter an amended decision consistent with the results of the decision by the State Board of Elections. The employment of any executive secretary presently employed or hereafter

employed shall not be terminated except in compliance with the procedures herein prescribed."

Sec. 2. For the purposes of this section the individual designated by the remaining four members of the State Board shall possess the same authority conferred upon the chairman pursuant to G.S. 163-22(c).

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of May, 1975.

H. B. 309

CHAPTER 212

AN ACT TO PROVIDE A CONSOLIDATED AND REVISED CHARTER FOR THE CITY OF MOUNT HOLLY IN GASTON COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 86 of the Session Laws of 1961 is hereby rewritten so that the revised and consolidated Charter of the City of Mount Holly shall read as follows:

"REVISED AND CONSOLIDATED CHARTER OF THE CITY OF MOUNT HOLLY

"Section 1. The inhabitants of the City of Mount Holly, in Gaston County, shall continue to be a body politic and corporate by the name of the 'City of Mount Holly'. Under that name the city continues to be vested with all the property and rights of property which now belong to the corporation; shall have perpetual succession; may use a corporate seal; may acquire and hold such estates in lands and property as may be devised, bequeathed, sold to, or in any manner conveyed to it or acquired by it, and may from time to time, under the general law governing municipal corporations, invest, sell or dispose of any such lands or property, including lands and property held for municipal purposes; may contract and be contracted with; may sue and be sued; and shall have all the powers, rights and privileges now or hereafter conferred upon municipal corporations by the general law of the State, including powers, rights and privileges necessary or belonging to, or usually appertaining to, municipal corporations, or appropriate to the exercise of the powers now or hereafter conferred on municipal corporations by the general law of the State.

"Sec. 2. The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive but, in addition to the powers enumerated therein or implied thereby, or appropriate to the exercise of such powers, it is intended that the City of Mount Holly shall have, and may exercise, all powers which, under the Constitution of North Carolina, it would be competent for this Charter specifically to enumerate. All powers of the city, whether expressed or implied, shall be exercised in the manner prescribed by this Charter, or, if not prescribed therein, then in the manner provided by ordinance or resolution of the governing body of the City of Mount Holly.

"Sec. 3. The form of government of the City of Mount Holly shall be the council-manager form of government, as set out in Chapter 160A of the General Statutes of North Carolina.

"Sec. 4. (a) The boundaries of the city shall be those existing at the time of adoption of this Charter with such alterations as may be made from time to time in the manner provided by law. The current city boundaries, at all times, shall be shown on a map, a written description or any combination thereof, to be

retained permanently in the office of the city manager and to be designated, as the case may be, 'Map (or Description) of Mount Holly City Limits'. Alterations in these boundaries shall be indicated by appropriate entries upon or additions to such map or description. Such entries or additions shall be made by or under the direction of the city manager. Copies of such map or description certified by the city clerk shall be admitted in evidence in all courts and shall have the same force and effect as would the original map or description.

(b) The city council may provide for the redrawing of any such map, from time to time. A redrawn map shall supersede for all purposes the earlier map or maps which it is designated to replace.

"Sec. 5. The government of the city and the general management and control of all of its affairs shall be vested in a city council, which shall be elected as hereinafter set forth and shall exercise its powers in the manner herein provided, except that the city manager shall have the authority hereinafter specified.

"Sec. 6. The city council shall consist of six members, who shall be elected at large by and from the qualified voters of the city for a term of four years and until their successors are elected and qualified. At each biennial regular municipal election, three councilmen and a mayor shall be elected, the councilmen to serve for four years and the mayor to serve for two years.

"Sec. 7. The mayor shall be elected at large by and from the qualified voters of the city for a term of two years and until his successor is elected and qualified.

"Sec. 8. The city council shall be empowered to expend reasonable sums of money for the decoration and beautification of the City of Mount Holly during the Christmas season and on such other occasions as the city council may deem proper.

"Sec. 9. If any part of this Charter shall be declared invalid by a court of competent jurisdiction, such judgment shall not invalidate the remainder of the Charter. The provisions of this Charter shall supersede all laws and ordinances not consistent herewith, insofar as the City of Mount Holly is affected thereby.

"Sec. 10. All laws and clauses of laws relating to or affecting the City of Mount Holly in force when this act shall take effect are hereby repealed and superseded to the extent that the same are inconsistent with the provisions of this act.

Insofar as the provisions of this act are the same in terms or in substance and effect as provisions of law in force when this act shall take effect, relating to or affecting the City of Mount Holly, the provisions of this act are intended to be not a new enactment but a continuation of such provisions of law, and this act shall be so construed and applied."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of May, 1975.

H. B. 495 **CHAPTER 213**

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF LANDIS AND TO REPEAL PRIOR CHARTER ACTS.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Landis is hereby revised and consolidated to read as follows:

"THE CHARTER OF THE TOWN OF LANDIS.

"ARTICLE I. INCORPORATION AND CORPORATE POWERS.

"Sec. 1.1. *Incorporation and General Powers.*—The Town of Landis, in the County of Rowan, shall continue to be a body politic and corporate under the name of the 'Town of Landis', and shall continue to be vested with all property and rights which now belong to the Town; shall have perpetual succession; may have a common seal and alter and renew the same at pleasure; may sue and be sued; may contract, may acquire and hold all such property, real and personal, as may be devised, bequeathed, sold or in any manner conveyed or dedicated to it, or otherwise acquired by it, and may from time to time hold, invest, sell, or dispose of the same; and shall have and may exercise in conformity with this Charter all municipal powers, functions, rights, privileges, and immunities of every name and nature.

"Sec. 1.2. *Exercise of Powers.*—All powers, functions, rights, privileges, and immunities of the Town, its officers, agencies, or employees, shall be carried into execution as provided by this Charter, or, if this Charter makes no provision, as provided by ordinance or resolution of the Board of Aldermen and as provided by the General Statutes of North Carolina pertaining to municipal corporations.

"Sec. 1.3. *Enumerated Powers Not Exclusive.*—The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive but, in addition to the powers enumerated herein or implied hereby, or those appropriate to the exercise of such powers, the Town of Landis shall have and may exercise all powers which are granted to municipal corporations by the General Statutes of North Carolina and all powers which, under the Constitution of North Carolina, it would be competent for this Charter specifically to enumerate.

"ARTICLE II. CORPORATE BOUNDARIES.

"Sec. 2.1. Existing Corporate Boundaries.

(a) The corporate limits of the Town of Landis shall be those existing at the time of the ratification of this Charter and as the same may be altered from time to time in accordance with law. The Board of Aldermen of the Town of Landis shall cause to be prepared a map to be designated 'Map of the Town of Landis Corporate Limits', showing the corporate limits as the same may exist as of the effective date of this Charter. The Board of Aldermen shall also cause to be prepared a written description of the corporate limits as shown on said map to be designated 'Description of Landis Corporate Limits'. This map and description shall be retained permanently in the Office of the Town Clerk as the official map and description of the corporate limits of the Town. Immediately upon alteration of the corporate limits pursuant to law, the Board of Aldermen shall cause to be made the appropriate changes to the official map and description. Photographic copies or other legible and permanent reproductions of the official map or description, certified as by law providing for the

certification of ordinances, shall be admissible into evidence in all courts and shall have the same force and effect as would the official map or description.

(b) The Board of Aldermen shall require the redrawing of the official map and the rewriting of the official description as may from time to time be required. A redrawn map and a rewritten description shall supersede for all purposes the earlier maps and descriptions which are respectively replaced.

"Sec. 2.2. *Extension of Corporate Boundaries.*—All extensions of the corporate boundaries shall be governed by the General Statutes of North Carolina.

"ARTICLE III. MAYOR AND BOARD OF ALDERMEN.

"Sec. 3.1. *Composition of Board of Aldermen.*—The Board of Aldermen shall consist of four members to be elected by the qualified voters of the Town voting at large in the manner provided in Article IV of this Charter.

"Sec. 3.2. *Mayor and Mayor Pro Tempore.*—The Mayor shall be elected by and from the qualified voters of the Town voting at large in the manner provided in Article IV of this Charter. The Mayor shall be the official head of the Town government and shall preside at all meetings of the Board of Aldermen. When there is an equal division on a question, the Mayor shall resolve the deadlock by his vote, but he shall vote in no other case. The Mayor shall exercise such powers and perform such duties as are or may be conferred upon him by the General Statutes of North Carolina, by this Charter, and by the ordinances of the Town. The Board of Aldermen shall choose one of its number to act as Mayor Pro Tempore, and he shall perform the duties of the Mayor in the Mayor's absence or disability. The Mayor Pro Tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the Board.

"Sec. 3.3. *Terms; Qualifications; Vacancies.*

(a) The Mayor and members of the Board of Aldermen shall serve for terms of two years; provided, they shall serve until their successors are elected and qualified pursuant to the General Statutes of North Carolina.

(b) No person shall be eligible to be a candidate or to be elected as Mayor or as a member of the Board of Aldermen or to serve in such capacity, unless he possesses the qualifications set forth in Article IV of the Constitution of the State of North Carolina.

(c) In the event a vacancy occurs in the office of Mayor or Alderman, the Board of Aldermen shall by majority vote appoint some qualified person to fill the vacancy for the remainder of the unexpired term.

"Sec. 3.4. *Organization of Board of Aldermen; Oaths of Office.*—The Board of Aldermen shall meet and organize for the transaction of business at the first regularly scheduled meeting of the Board in December following each biennial election, after the results of such election have been certified pursuant to the General Statutes of North Carolina. Before entering upon their offices, the Mayor and each Alderman shall take, subscribe to and have entered upon the minutes of the Board the following oath of office:

'I, _____, do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office as _____, so help me, God.'

"Sec. 3.5. *Meetings of Board.*—The Board of Aldermen shall fix a suitable time and place for its regular meetings, which shall be held at least as often as once monthly. Special meetings may be held according to the procedures and requirements designated by the General Statutes of North Carolina pertaining to special meetings of City Councils.

"Sec. 3.6. *Ordinances and Resolutions.*—The adoption, amendment, repeal, pleading, or proving of ordinances shall be in accordance with the applicable provisions of the General Statutes of North Carolina not inconsistent with the Charter. The ayes and noes shall be taken upon all ordinances and resolutions and entered upon the minutes of the Board. The enacting clause of all ordinances shall be: 'Be it ordained by the Board of Aldermen of the Town of Landis'. All ordinances and resolutions shall take effect upon adoption unless otherwise provided therein.

"ARTICLE IV. ELECTIONS.

"Sec. 4.1. *Regular Municipal Elections.*—The regular municipal elections for the Town of Landis shall be conducted in accordance with the non-partisan plurality method of election, as set forth in Chapter 163 of the General Statutes of North Carolina.

"Sec. 4.2. *Other Municipal Elections.*—All other Town elections shall be conducted in accordance with the General Statutes of North Carolina relating to municipal elections.

"ARTICLE V. TOWN ATTORNEY.

"Sec. 5.1. *Appointment; Qualifications; Term; Compensation.*—The Board of Aldermen shall appoint a Town Attorney who shall be an attorney at law licensed to engage in the practice of law in North Carolina and who need not be a resident of the Town during his tenure. The Town Attorney shall serve at the pleasure of the Board and shall receive such compensation as the Board shall determine.

"Sec. 5.2. *Duties of Town Attorney.*—It shall be the duty of the Town Attorney to prosecute and defend suits against the Town; to advise the Mayor, Board of Aldermen and other Town officials with respect to the affairs of the Town; to draft all legal documents relating to the affairs of the Town; to draft proposed ordinances when requested to do so; to inspect and pass upon all agreements, contracts, franchises and other instruments with which the Town may be concerned; to attend all meetings of the Board of Aldermen, when required by the Board; and to perform such other duties as may be required of him by virtue of his position as Town Attorney.

"ARTICLE VI. ADMINISTRATIVE OFFICERS AND EMPLOYEES.

"Sec. 6.1. *Town Clerk.*—The Board of Aldermen shall appoint a Town Clerk to keep a journal of the proceedings of the Board, to maintain in a safe place all records and documents pertaining to the affairs of the Town, and to perform such other duties as may be required by law or as the Board may direct.

"Sec. 6.2. *Town Tax Collector.*—The Board of Aldermen shall appoint a Tax Collector to collect all taxes, licenses, fees and other moneys belonging to the Town, subject to the provisions of the General Statutes of North Carolina, the provisions of this Charter, and the ordinances of the Town. The Tax Collector shall diligently comply with and enforce all the General Statutes of North Carolina relating to the collection, sale and foreclosure of taxes by municipalities.

"Sec. 6.3. *Town Budget Officer.*—The Board of Aldermen shall appoint a Town Budget Officer to perform the duties of the Budget Officer as required by the Local Government Budget and Fiscal Control Act.

"Sec. 6.4. *Town Finance Officer.*—The Board of Aldermen shall appoint a Town Finance Officer to perform the duties of the Finance Officer as required by the Local Government Budget and Fiscal Control Act.

"Sec. 6.5. *Consolidation of Functions.*—The Board of Aldermen may consolidate any two or more of the positions of Town Clerk, Town Tax Collector, Town Budget Officer, and Town Finance Officer, or may assign the functions of any one or more of these positions, subject to the Local Government Budget and Fiscal Control Act.

"ARTICLE VII. FINANCE.

"Sec. 7.1. *Custody of Town Money.*—All moneys received by the Town for or in connection with the business of the Town government shall be paid promptly into the Town depository or depositories. Such institutions shall be designated by the Board of Aldermen in accordance with the regulations and subject to the requirements as to security for deposits and interest thereon as may be established by the General Statutes of North Carolina. All interest on moneys belonging to the Town shall accrue to the benefit of the Town. All moneys belonging to the Town shall be disbursed in accordance with the provisions of the Local Government Budget and Fiscal Control Act.

"Sec. 7.2. *Independent Audit.*—As soon as possible after the close of each fiscal year, an independent audit shall be made of all books and accounts of the Town government by a certified public accountant or an accountant certified by the Local Government Commission. The audit shall be secured in accordance with the provisions of the Local Government Budget and Fiscal Control Act.

"ARTICLE VIII. CLAIMS AGAINST THE TOWN.

"Sec. 8.1. Presentation of Claims; Suit Upon Claims.

(a) All claims or demands against the Town of Landis arising in tort or in contract shall be presented to the Board of Aldermen in writing, signed by the claimant or his attorney or agent, within 90 days after the claim or demand is due or the cause of action accrues. No suit or action shall be brought thereon within 30 days, or after the expiration of 12 months, from the time the claim or demand is so presented. Unless the claim or demand is so presented within 90 days after the cause of action accrues, and unless suit is brought within 12 months thereafter, any action thereon is barred.

(b) No action shall be instituted against the Town for damages to or compensation for real property taken or used by the Town for any public purpose, or for the ejectment of the Town therefrom, or to remove a cloud upon the title thereof, unless, within two years after such alleged use, the owner, his executor administrator, guardian, or next friend shall have given notice in writing to the Board of Aldermen of the claim, including in the notice the date that the alleged use commenced, a description of the property alleged to have been used, and the amount of the damage or compensation claimed.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, if a complainant suffers from physical or mental incapacity that renders it impossible for him to give notice, his action shall not be barred if notice of claim is given by him or on his behalf within six months after the termination of his incapacity; provided, that minority shall not of itself constitute physical or mental incapacity. If the complainant is a minor, his action shall not be barred if

notice of claim is given on his behalf within three years after the occurrence of the infliction of the injury complained of; or, if the minor suffers from physical or mental incapacity that renders it impossible for him to give notice, his action shall not be barred if notice of claim is given on his behalf within six months after termination of the incapacity, or within three years after the occurrence or the infliction of the injury complained of, whichever is the longer period. The Town may at any time request the appointment of a next friend to represent any person having a potential claim against the Town and known to be suffering from physical or mental incapacity.

"ARTICLE IX. TOWN ELECTRIC SYSTEM.

"Sec. 9.1. *Sale, Lease or Discontinuance of Municipally Owned Electric System.*—The Board of Aldermen is authorized to sell, lease (as lessor), or discontinue the electric power distribution system owned by the Town of Landis upon such terms and conditions as the Board deems best; provided, however, that the electric power distribution system owned by the Town shall not be sold, leased to another, or discontinued unless the proposal to sell, lease, or discontinue is first submitted to a vote of the qualified voters of the Town of Landis and is approved by a majority of those who vote thereon.

"ARTICLE X. STREET AND SIDEWALK IMPROVEMENTS.

"Sec. 10.1. *Street Improvements; Assessment of Costs.*—In addition to any authority which is now or may hereafter be granted by the General Statutes of North Carolina to the Town of Landis for making street improvements, the Board of Aldermen is hereby authorized to make street improvements and to assess the cost thereof against abutting property owners in accordance with the provisions of this Article.

"Sec. 10.2. *When Petition Unnecessary.*—The Board of Aldermen may order street improvements and assess the cost thereof against the abutting property owners, exclusive of the costs incurred at street intersections, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the North Carolina General Statutes, without the necessity of a petition, upon the finding by the Board as a fact:

(a) That the street improvement project does not exceed 1,200 linear feet, and

(b) That such street or part thereof is unsafe for vehicular traffic, and it is in the public interest to make such improvements, or

(c) That it is in the public interest to connect two streets, or portions of a street already improved, or

(d) That it is in the public interest to widen a street, or part thereof, which is already improved, provided, that assessments for widening any street and otherwise improving such street in accordance with the street classification and improvement standards established by the Town's thoroughfare or major street plan for the particular street or part thereof to be widened and improved under the authority granted by this Article.

"Sec. 10.3. *Street Improvement Defined.*—For the purpose of this Article, the term 'street improvement' shall include grading, regrading, surfacing, resurfacing, widening, paving, repaving, the acquisition of right-of-way and the construction or reconstruction of curbs, gutters and street drainage facilities.

"Sec. 10.4. *Sidewalks; Assessment of Costs.*—In addition to any authority which is now or may hereafter be granted by the General Statutes of North Carolina to the Town for making sidewalk improvements, the Board of

Aldermen is hereby authorized, without the necessity of a petition, to make or to order to be made sidewalk improvements or repairs according to standards and specifications of the Town, and to assess the total cost thereof against abutting property owners, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the North Carolina General Statutes; provided, however, that regardless of the assessment basis or bases employed, the Board of Aldermen may order the cost of sidewalk improvements made only on one side of a street to be assessed against property owners abutting both sides of such street.

"Sec. 10.5. *Assessment Procedure.*—In ordering street and sidewalk improvements without a petition and assessing the cost thereof under authority of this Article, the Board of Aldermen shall comply with the procedure provided by Article 10, Chapter 160A of the General Statutes, except those provisions relating to the petition of property owners and the sufficiency thereof.

"Sec. 10.6. *Effect of Assessments.*—The effect of the act of levying assessments under the authority of this Article shall for all purposes be the same as if the assessments were levied under authority of Article 10 of Chapter 160A of the General Statutes.

"Sec. 10.7. *Acceptance of Conveyance in Satisfaction of Assessments.*—The Town Tax Collector or other officials or employee of the Town having charge of the collection of special assessments, shall have the right, power, and authority by and with the approval of the Board of Aldermen first obtained, to receive and accept a fee simple conveyance to the Town of any lot or parcel of land in the Town, free and clear of other encumbrances, in full settlement and satisfaction of all street and sidewalk assessments outstanding and unpaid against such property. Such right, power, and authority, however, shall be limited to a conveyance of the whole of the lot or parcel of land against which the particular assessment or assessments involved were levied. No lot or tract of land may be divided and no such right, power, and authority exercised as to a part, only, of the property originally embraced in and covered by said assessment or assessments. In the case of such conveyance, it shall not be necessary that the street or sidewalk assessment or assessments against the property be foreclosed; but the Town, upon the receipt of any such conveyance, shall become and be the absolute fee simple owner of the property, as fully to all intents and purposes as if purchased in and through foreclosure proceedings for the enforcement of such street and sidewalk assessment or assessments.

"ARTICLE XI. PROHIBITED ACTS.

"Sec. 11.1. *Sale of Alcoholic Beverages.*—It shall be unlawful for any person to sell or give away, directly or indirectly, within the corporate limits of Landis, North Carolina, any intoxicating drink, brandy, whiskey, wine, ale, beer, cider, fermented or unfermented or any other liquid that will intoxicate, except upon the written prescription of a physician licensed by the North Carolina Medical Board, which prescription must set forth over the physician's professional signature that the applicant is sick and needs the liquid as a medicine, and must be countersigned by the Mayor or some member of the Board of Aldermen of Landis: *Provided, however,* this shall not apply to the liquids sold under the name of 'vinegars' used for culinary purposes, but if it be known that such liquid is being used as a beverage, then the Mayor and Board of Aldermen shall have power and it shall be their duty to enter the premises of the vendor or distributor and seize the contents. Any person violating this section shall be

deemed guilty of a misdemeanor and upon conviction thereof shall for each offense be fined ten dollars ($10.00) or imprisoned not exceeding 30 days.

"Sec. 11.2. *Discharge of Firearms and Explosives.*—That it shall be a misdemeanor for any person to fire a gun, pistol, firecracker, roman candle or any explosive within the corporate limits of Landis unless by permission from the Board of Aldermen, and said Board shall not have power to suspend this section more than 24 consecutive hours. Any person violating this section shall, upon conviction, be subject to a fine of up to twenty-five dollars ($25.00) or imprisonment of up to 30 days."

Sec. 2. The purpose of this act is to revise the Charter of the Town of Landis and to consolidate herein certain acts concerning the property, affairs, and government of the Town. It is intended to continue without interruption those provisions of prior acts which are consolidated into this act, so that all rights and liabilities that have accrued are preserved and may be enforced.

Sec. 3. This act shall not be deemed to repeal, modify, or in any manner affect any of the following acts, portions of acts, or amendments thereto, whether or not such acts, portions of acts, or amendments are expressly set forth herein:

(a) Any acts concerning the property, affairs, or government of public schools in the Town of Landis.

(b) Any acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind.

Sec. 4. The following acts or portions of acts, having served the purposes for which they were enacted, or having been consolidated into this act are hereby repealed:

Chapter	Laws
245	Private Laws 1901
6	Private Laws 1909
8	Private Laws, Extra Session, 1924

Sec. 5. No provision of this act is intended, nor shall be construed, to affect in any way any rights or interest (whether public or private):

(a) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act.

(b) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken (including the adoption of ordinances or resolutions) pursuant to or within the scope of any provision of law repealed by this act.

Sec. 6. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(a) The repeal herein of any act repealing such law, or

(b) Any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

Sec. 7. (a) All existing ordinances and resolutions of the Town of Landis, and all existing rules or regulations of departments or agencies of the Town of Landis, not inconsistent with the provisions of this act, shall continue in full force and effect until repealed, modified or amended.

(b) No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act

by or against the Town of Landis or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

Sec. 8. Severability. If any of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 9. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 10. This act shall be effective upon its ratification.

In the General Assembly read three times and ratified, this the 5th day of May, 1975.

H. B. 499 CHAPTER 214

AN ACT RELATING TO THE USE OF FIREARMS IN GATES COUNTY AND HERTFORD COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 1333 of the Session Laws of 1973 (Second Session 1974) is hereby amended by striking from line 2 of Section 5 thereof the words "Gates and Hertford".

Sec. 2. It shall be unlawful for any person, association of persons, firm or corporation to possess any centerfire rifle upon or on the lands of another or to hunt with such centerfire rifle upon the lands of another without first having secured the express written permission of the owner or lessee of the land upon which such rifle is possessed or hunted with or over or across which such centerfire rifle is discharged. Said written permission must be in the possession of the person who has possession of such centerfire rifle and said permission shall be good for only one year from the issuance thereof.

Sec. 3. It shall be unlawful for any person, association of persons, firm or corporation to discharge any centerfire rifle from, to or across any State-maintained road or highway or to hunt from, to or across any State-maintained road or highway. This act shall not be interpreted to make unlawful the mere possession of a centerfire rifle on any State-maintained road or highway when such rifle is being transported within or on any motor vehicle.

Sec. 4. Any person, association of persons, firm or corporation violating the provisions of this act shall be guilty of a misdemeanor and upon conviction shall be fined a sum not to exceed fifty dollars ($50.00) or imprisonment not to exceed 30 days, or both fined and imprisoned, in the discretion of the court.

Sec. 5. All law enforcement officers, including wildlife protectors, shall have authority to enforce the provisions of this act.

Sec. 6. Chapter 169 of the Session Laws of 1959 and all other laws and clauses of laws inconsistent herewith are hereby repealed.

Sec. 7. This act shall apply to Gates County and Hertford County only.

Sec. 8. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of May, 1975.

H. B. 530 **CHAPTER 215**

AN ACT TO PROHIBIT THE HUNTING OF DEER FROM ANY PUBLIC ROAD OR HIGHWAY IN CASWELL COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It shall be unlawful to hunt deer at any time on or from any public road or highway, or the right-of-way of said road or highway in Caswell County.

Sec. 2. Any person violating provisions of this act shall be guilty of a misdemeanor and shall be fined not less than twenty-five dollars ($25.00), nor more than one hundred dollars ($100.00).

Sec. 3. The provisions of this act shall not be deemed exclusive and any person hunting, killing or taking deer or attempting to hunt, kill or take deer without a valid license, or out of season, or between sunset and sunrise, or in violation of a statute prohibiting the taking of doe deer, may also be punished for violation of any statute or regulation of the Wildlife Resources Commission prohibiting such acts.

Sec. 4. This act shall be enforced by all peace officers of the State and county who are authorized to enforce hunting laws and regulations, including officers of the North Carolina Wildlife Resources Commission.

Sec. 5. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 5th day of May, 1975.

H. B. 536 **CHAPTER 216**

AN ACT TO REMOVE WAYNE COUNTY FROM THE LIST OF THOSE COUNTIES EXEMPTED FROM THE PENALTY PROVISIONS FOR TAKING DEER WITH BOATS.

The General Assembly of North Carolina enacts:

Section 1. Subsection (e) of G.S. 113-109 is hereby amended by deleting from the last line of said subsection the word "Wayne" and the comma immediately following the word "Washington."

Sec. 2. This act shall become effective on ratification.

In the General Assembly read three times and ratified, this the 5th day of May, 1975.

H. B. 551 **CHAPTER 217**

AN ACT TO REPEAL CHAPTER 265 OF THE 1969 SESSION LAWS OF NORTH CAROLINA AS AMENDED CONCERNING THE HUNTING OF GAME ANIMALS WITH DOGS IN BEAUFORT COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 265 of the 1969 Session Laws as amended by Chapter 129 of the 1971 Session Laws is hereby repealed.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of May, 1975.

H. B. 555 CHAPTER 218

AN ACT TO REGULATE TRAPPING IN BRUNSWICK COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It shall be unlawful to set or possess any trap designed or intended to catch or snare any domestic or wild animal on any lands in Brunswick County except as hereinafter provided.

Sec. 2. It shall be lawful to set or possess a trap of no larger than No. 2 size on one's own land or on land which is under written lease to the possessor or setter of a trap no larger than No. 2 size.

Sec. 3. Violation of this act shall constitute a misdemeanor punishable by a fine of one hundred dollars ($100.00) or by imprisonment for 30 days, or by both fine and imprisonment.

Sec. 4. This act shall apply only to Brunswick County.

Sec. 5. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 5th day of May, 1975.

H. B. 599 CHAPTER 219

AN ACT ESTABLISHING STANDARDS FOR DEER HUNTING IN GREENE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It shall be unlawful to take or kill or attempt to take or kill deer with, by, or through the use of dogs in any manner.

Sec. 2. It shall be unlawful to take or kill or attempt to take or kill deer with rifles, except through the use of tree stands with at least an eight-foot elevation.

Sec. 3. It shall be unlawful to hunt fox, either red or gray, with firearms during the two-week deer season.

Sec. 4. Any person violating the provisions of this act shall be guilty of a misdemeanor and shall be fined a minimum of two hundred fifty dollars ($250.00) or imprisoned not exceeding 30 days, or both, in the discretion of the court.

Sec. 5. This act shall apply only in Greene County.

Sec. 6. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of May, 1975.

S. B. 234 CHAPTER 220

AN ACT TO AMEND G.S. 143B-266 TO PERMIT PAROLE OF PERSONS NOT IN THE PRESENT CUSTODY OF THE DEPARTMENT OF CORRECTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-266(a), as it appears in the 1974 Cumulative Supplement to Volume 3C of the General Statutes of North Carolina, is hereby amended by deleting from lines five and six the words "in any prison, jail, or penal institution of this State or its political subdivisions".

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of May, 1975.

S. B. 288 CHAPTER 221

AN ACT TO PROVIDE FOR DISTINCTIVE COLORS FOR FREE REGISTRATION PLATES ISSUED TO DISABLED VETERANS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-81.4(b) is hereby amended by rewriting same to read as follows:

"(b) The registration plates provided for by this section shall be red, white and blue with colors in such order as prescribed by the Department of Motor Vehicles."

Sec. 2. This act shall become effective January 1, 1976.

In the General Assembly read three times and ratified, this the 5th day of May, 1975.

S. B. 329 CHAPTER 222

AN ACT TO AMEND G.S. 20-79.2 RELATIVE TO TRANSPORTER REGISTRATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-79.2(a) is hereby amended by inserting immediately after the word "facilitate" and immediately before the word "the" appearing in line 2 thereof the words "the manufacture or construction of cabs or bodies or" and by inserting immediately after the word "with" and immediately before the word "foreclosure" appearing in line 3, subsection (a)(5) the words "the manufacture or construction of cabs or bodies or with the".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of May, 1975.

S. B. 392 CHAPTER 223

AN ACT TO REQUIRE NOTIFICATION OF CHANGE OF ADDRESS BY HOLDER OF A DRIVER'S LICENSE.

The General Assembly of North Carolina enacts:

Section 1. Article 2 of Chapter 20 of the General Statutes of North Carolina is hereby amended by adding a new Section 20-7.1 to read as follows:

"§ 20-7.1. *Notification of change of address.*—Whenever the holder of a license issued under the provisions of G.S. 20-7 changes his or her address as shown on such license, he or she shall notify the Division of Motor Vehicles of such change within 60 days after such address has been changed."

Sec. 2. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 5th day of May, 1975.

S. B. 463 **CHAPTER 224**

AN ACT AMENDING G.S. 162A-2(7), G.S. 162A-4(b), G.S. 162A-5, AND G.S. 162A-14(1) AND (4), THE SAME BEING A PART OF ARTICLE 1, THE "NORTH CAROLINA WATER AND SEWER AUTHORITIES ACT", OF CHAPTER 162A OF THE GENERAL STATUTES, AND PROVIDING AN ALTERNATIVE PROCEDURE FOR CREATING AN AUTHORITY UNDER SUCH ACT.

The General Assembly of North Carolina enacts:

Sec. 1. Chapter 162A of the General Statutes is amended by inserting a new section therein as follows:

"§ 162A-3.1. *Alternative procedure for creation.*—(a) As an alternative to the procedure set forth in G.S. 162A-3, the governing bodies of any two or more political subdivisions may by resolution signify their determination to organize an authority under the provisions of this section of this Article. Each of such resolutions shall be adopted after a public hearing thereon, notice of which hearing shall be given by publication at least once, not less than 10 days prior to the date fixed for such hearing, in a newspaper having a general circulation in the political subdivision. Such notice shall contain a brief statement of the substance of the proposed resolution, shall set forth the proposed articles of incorporation of the authority and shall state the time and place of the public hearing. No such political subdivision shall be required to make any other publication of such resolution under the provisions of any other law.

(b) Each such resolution shall include articles of incorporation which shall set forth:

(1) The name of the authority;

(2) A statement that such authority is organized under this section of this Article;

(3) The names of the organizing political subdivisions;

(4) The names and addresses of the members of the authority appointed by the organizing political subdivisions; and

(5) A statement that members of the authority will be limited to such members as may be appointed from time to time by the organizing political subdivisions.

(c) A certified copy of each of such resolutions signifying the determination to organize an authority under the provisions of this section of this Article shall be filed with the Secretary of State of North Carolina, together with proof of publication of the notice of hearing on each of such resolutions. If the Secretary of State finds that the resolutions, including the articles of incorporation, conform to the provisions of this section of this Article and that the notices of hearing were properly published, he shall file such resolutions and proofs of publication in his office and shall issue a certificate of incorporation under the seal of the State and shall record the same in an appropriate book of record in his office. The issuance of such certificate of incorporation by the Secretary of State shall constitute the authority a public body and body politic and corporate of the State of North Carolina. Said certificate of incorporation shall be conclusive evidence of the fact that such authority has been duly created and established under the provisions of this section of this Article.

(d) When the authority has been duly organized and its officers elected as herein provided the secretary of the authority shall certify to the Secretary of

State the names and addresses of such officers as well as the address of the principal office of the authority."

Sec. 2. G.S. 162A-4(b) is amended to read as follows:

"Any political subdivision desiring to withdraw from or to join an existing authority shall signify its desire by resolution adopted after a public hearing thereon, notice of which hearing shall be given in the manner and at the time provided in G.S. 162A-3 or G.S. 162A-3.1, as appropriate. Such notice shall contain a brief statement of the substance of said resolution and shall state the time and place of the public hearing to be held thereon. In the case of a political subdivision desiring to join the authority, the resolution shall set forth all of the information required under G.S. 162A-3 or G.S. 162A-3.1, as appropriate, in connection with the original organization of the authority, including the name and address of the first member of the authority from the joining political subdivision if the authority was organized under G.S. 162A-3."

Sec. 3. The first paragraph of G.S. 162A-5 is amended to read as follows:

"Each authority organized under this Article shall consist of the number of members as may be agreed upon by the participating political subdivision, such members to be selected by the respective political subdivision. A proportionate number (as nearly as can be) of members of the authority first appointed shall have terms expiring one year, two years and three years respectively from the date on which the creation of the authority becomes effective. Successor members and members appointed by a political subdivision subsequently joining the authority shall each be appointed for a term of three years, but any person appointed to fill the vacancy shall be appointed to serve only for the unexpired term and any member may be reappointed; provided, however, that a political subdivision subsequently joining an authority created under G.S. 162A-3.1 shall not have the right to appoint any members to such authority. Appointments of successor members shall, in each instance, be made by the governing body of the political subdivision appointing the member whose successor is to be appointed. Any member of the authority may be removed, with or without cause, by the governing body appointing said member."

Sec. 4. The last sentence of G.S. 162A-5 is rewritten to read as follows:

"The members of the authority may be paid a per diem compensation set by the authority which per diem may not exceed the total amount of two thousand dollars ($2,000) annually, and shall be reimbursed for the amount of actual expenses incurred by them in the performance of their duties."

Sec. 5. G.S. 162A-14(1) is amended to read as follows:

"Pursuant to the provisions of G.S. 160A-274 and subject to the approval of the Local Government Commission, except for action taken hereunder by any State agency, to transfer jurisdiction over, and to lease, lend, grant or convey to an authority upon the request of the authority, upon such terms and conditions as the governing body of such political subdivision may agree with the authority as reasonable and fair, the whole or any part of any existing water system or sewer system or such real or personal property as may be necessary or desirable in connection with the acquisition, construction, reconstruction, improvement, extension, enlargement, equipment, repair, maintenance or operation of any water system or sewer system or part thereof by the authority, including public roads and other property already devoted to public use;".

Sec. 6. G.S. 162A-14(4) is amended to read as follows:

"In its discretion, to submit to the qualified electors under the election laws applicable to such political subdivision any contract or agreement which such governing body is authorized to make and enter into with the authority under the provisions of this Article."

Sec. 7. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 5th day of May, 1975.

S. B. 531 CHAPTER 225

AN ACT TO ESTABLISH A MAXIMUM AND UNIFORM SPEED LIMIT WITHIN THE STATE IN COMPLIANCE WITH THE "FEDERAL-AID HIGHWAY AMENDMENTS OF 1974".

The General Assembly of North Carolina enacts:

Section 1. Chapter 20 of the North Carolina General Statutes is hereby amended by adding two new subsections to G.S. 20-141 to read as follows:

"(k) Notwithstanding any other provision contained in G.S. 20-141 or any other statute or law of this State, the maximum speed limit on any public highway within the State of North Carolina shall not exceed 55 miles per hour.

(1) Notwithstanding any other provision contained in G.S. 20-141 or any other statute or law of this State, including municipal charters, any speed limit on any portion of the public highways within the jurisdiction of this State shall be uniformally applicable to all types of motor vehicles using such portion of the highway, if on November 1, 1973, such portion of the highway had a speed limit which was uniformally applicable to all types of motor vehicles using it. Provided, however, that a lower speed limit may be established for any vehicle operating under a special permit because of any weight or dimension of such vehicle including any load thereon. The requirement for a uniform speed limit hereunder shall not apply to any portion of the highway during such time as the condition of the highway, weather, an accident, or other condition creates a temporary hazard to the safety of traffic on such portion of the highway."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of May, 1975.

S. B. 570 CHAPTER 226

AN ACT TO AMEND CHAPTER 96 OF THE GENERAL STATUTES KNOWN AS THE EMPLOYMENT SECURITY LAW MAKING TEACHERS AND OTHER SECONDARY SCHOOL PERSONNEL NOW COVERED FOR UNEMPLOYMENT INSURANCE PURPOSES BY FEDERAL LAW, STATE LAW, OR CONTRACT WHO DO NOT HAVE AN EMPLOYMENT CONTRACT ELIGIBLE FOR UNEMPLOYMENT INSURANCE BENEFITS DURING THE TRADITIONAL NONWORKING WEEKS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 96-13(3) is amended by adding after the period following the word "begins" on line 20, the following:

"Provided further, any employee of a secondary school system or subdivision of a secondary school system now covered for unemployment insurance purposes by federal law, State law, or contract, shall be considered available for work during any week such individual is on vacation between successive terms, quarters, academic years, or similar periods between two regular terms, whether or not successive, only if the individual does not have a contract or contracts, written, oral, or implied, to perform services in any capacity for a secondary school system or subdivision of a secondary school system for both such academic years or both such terms."

Sec. 2. G.S. 96-13(4) is amended by redesignating the present paragraph (4) as (4)A and adding a new paragraph (4)B as follows:

"(4)B. The payment of benefits to any individual based on services for secondary schools, or subdivisions of said secondary schools, subject to this Chapter, or administered under the provisions of this Chapter, shall be in the same manner and under the same conditions of the laws of the Chapter as apply to individuals whose benefit rights are based on other services subject to this Chapter. Except that with respect to services in a secondary school, or subdivision thereof, benefits shall be payable based on such services for any week commencing during the period between two successive academic years or during a similar period between two regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, only if the individual does not have a contract or contracts, written, oral, or implied, to perform services in any such capacity for any secondary school for both such academic years or both such terms."

Sec. 3. G.S. 96-8(5) is amended by adding a new subparagraph m. as follows:

"For purposes of this Chapter, 'secondary school' means any school not an institution of higher education as defined in G.S. 96-8(5)1."

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of May, 1975.

S. B. 283 CHAPTER 227

AN ACT TO AMEND CHAPTER 17B OF THE GENERAL STATUTES TO MAKE THE SECRETARY OF CORRECTION A MEMBER OF THE NORTH CAROLINA CRIMINAL JUSTICE EDUCATION AND TRAINING SYSTEM COUNCIL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 17B-4(a)(9) is hereby rewritten as follows:

"(9) The Attorney General, the Director of the Adminstrative Office of the Courts, the Secretary of Correction, the Director of Prisons, the Director of Jail and Detention Services, the Director of Adult Probation and Parole, the Director of Youth Development, the Director of the State Bureau of Investigation, the Commissioner of Motor Vehicles, the Commander of the State Highway Patrol, the Executive Director of the Wildlife Resources Commission, the Commissioner of Commercial and Sports Fisheries, the Chairman of the State Board of Alcoholic Control, the Coordinator of the Governor's Highway Safety Program, the President of Community Colleges of

the Department of Education, and the Director of the Institute of Government, all of whom shall serve ex officio."

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall be in full force and effect upon ratification.

In the General Assembly read three times and ratified, this the 6th day of May, 1975.

S. B. 356 CHAPTER 228

AN ACT RELATING TO INTERSTATE PAROLE AND PROBATION HEARING PROCEDURES FOR JUVENILES.

The General Assembly of North Carolina enacts:

Section 1. There is hereby added a new Article of Chapter 110 of the General Statutes of North Carolina immediately following G.S. 110-64, to be designated Article 5A, and to read as follows:

"Article 5A.

"Interstate Parole and Probation Hearing Procedures for Juveniles.

"§ 110-64.1. *Parole and probation hearing procedures for juveniles.*—Where supervision of a parolee or probationer is being administered pursuant to the Interstate Compact on Juveniles, the appropriate judicial or administrative authorities in this State shall notify the Compact Administrator of the sending state whenever, in their view, consideration should be given to retaking or reincarceration for a parole or a probation violation. Prior to the giving of any such notification, a hearing shall be held in accordance with this Article within a reasonable time, unless such hearing is waived by the parolee or probationer. The appropriate officer or officers of this State shall as soon as practicable, following termination of any such hearing, report to the sending state, furnish a copy of the hearing record, and make recommendations regarding the disposition to be made of the parolee or probationer by the sending state. Pending any proceeding pursuant to this section, the appropriate officers of this State may take custody of and detain the parolee or probationer involved for a period not to exceed 10 days prior to the hearing and, if it appears to the hearing officer or officers that retaking or reincarceration is likely to follow, for such reasonable period after the hearing or waiver as may be necessary to arrange for the retaking or the reincarceration.

"§ 110-64.2. *Hearing officers.*—Any hearing pursuant to this Article may be before the Administrator of the Interstate Compact on Juveniles, a deputy of such Administrator, or any other person authorized pursuant to the juvenile laws of this State to hear cases of alleged juvenile parole or probation violations, except that no hearing officer shall be the person making the allegation of violation.

"§ 110-64.3. *Due process at parole or probation violation hearing.*—With respect to any hearing pursuant to this Article, the parolee or probationer:

(a) Shall have reasonable notice in writing of the nature and content of the allegations to be made, including notice that the purpose of the hearing is to determine whether there is probable cause to believe that he has committed a violation that may lead to a revocation of parole or probation.

(b) Shall be permitted to advise with any persons whose assistance he reasonably desires, prior to the hearing.

(c) Shall have the right to confront and examine any persons who have made allegations against him, unless the hearing officer determines that such confrontation would present a substantial present or subsequent danger of harm to such person or persons.

(d) May admit, deny or explain the violation alleged and may present proof, including affidavits and other evidence, in support of his contentions. A record of the proceedings shall be made and preserved.

"§ 110-64.4. *Effect of parole or probation violation hearing outside the State.*—In any case of alleged parole or probation violation by a person being supervised in another state pursuant to the Interstate Compact on Juveniles, any appropriate judicial or administrative officer or agency in another state is authorized to hold a hearing on the alleged violation. Upon receipt of the record of a parole or probation violation hearing held in another state pursuant to a statute substantially similar to this Article, such record shall have the same standing and effect as though the proceeding of which it is a record was had before the appropriate officer or officers in this State, and any recommendations contained in or accompanying the record shall be fully considered by the appropriate officer or officers of this State in making disposition of the matter."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of May, 1975.

S. B. 364 CHAPTER 229

AN ACT TO INCLUDE IN THE DUTIES OF PROBATION OFFICERS A REQUIREMENT THAT THEY TAKE THEIR PROBATIONERS TO A PRISON UNIT EARLY IN THE TERM OF PROBATION IN ORDER THAT THE PROBATIONERS MIGHT HAVE A BETTER APPRECIATION OF THE CONSEQUENCES OF PROBATION REVOCATION AND TO PROVIDE THAT SUCH TOUR SHALL BE A CONDITION OF PROBATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15-205 as the same presently appears in the 1974 Cumulative Supplement to the 1965 Replacement Volume 1C of the General Statutes of North Carolina is hereby amended to strike the period from the end of the sentence which presently is included therein as follows:

"Such officer shall use all practicable and suitable methods, not inconsistent with the conditions imposed by the Court, or the Secretary of Correction, to aid and encourage persons on probation to bring about improvement in their conduct and condition", to substitute a comma for the stricken period, and to follow the comma with the following language:

"and shall within the first 30 days of a person's probation take such person to a prison unit maintained by the Department of Correction for a tour thereof so that he may better appreciate the consequences of probation revocation."

Sec. 2. G.S. 15-199 is hereby amended by adding a new subdivision "(15)" to read as follows:

"(15) Within the first 30 days of his probation, visit, with his probation officer, a prison unit maintained by the Department of Correction for a tour

thereof so that he may better appreciate the consequences of probation revocation."

Sec. 3. This act shall become effective 60 days after its ratification.

In the General Assembly read three times and ratified, this the 6th day of May, 1975.

S. B. 381 CHAPTER 230

AN ACT TO AUTHORIZE THE USE OF ANY MEANS REASONABLY NECESSARY TO PREVENT THE ESCAPE OF PRISONERS WITH FELONY SENTENCES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 148-46 as it presently appears in the 1974 Replacement of Volume 3C of the General Statutes of North Carolina is hereby amended by designating the present paragraph as subsection (a) and adding a new subsection (b) to read as follows:

"A misdemeanor prisoner classified and treated as a convicted felon as the result of a consecutive felony sentence or sentences, or a convicted felon placed in the custody of the Secretary of Correction pending the outcome of an appeal, or a defendant charged with a felony or felonies and placed in the custody of the Secretary of Correction pending trial, shall be considered as a convicted felon in the custody of the Secretary of Correction against whom any means reasonably necessary, including deadly force, may be used to prevent an escape."

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 6th day of May, 1975.

S. B. 442 CHAPTER 231

AN ACT TO AMEND G.S. 153A-331 TO ALLOW DEVELOPERS TO FURNISH FUNDS FOR COUNTIES TO PURCHASE RECREATIONAL LAND.

The General Assembly of North Carolina enacts:

Section 1. The first paragraph of G.S. 153A-331 is amended by adding a sentence to the end thereof to read as follows:

"A subdivision control ordinance may provide that a developer may provide funds to the county whereby the county may acquire recreational land or areas to serve the development or subdivision, including the purchase of land which may be used to serve more than one subdivision or development within the immediate area."

Sec. 2. This act shall become effective on October 1, 1975.

In the General Assembly read three times and ratified, this the 6th day of May, 1975.

S. B. 505 **CHAPTER 232**

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF DOBSON AND TO REPEAL PRIOR CHARTER ACTS.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Dobson is hereby revised and consolidated to read as follows:

"THE CHARTER OF THE TOWN OF DOBSON.

"ARTICLE I.

"Incorporation and Corporate Powers.

"Sec. 1.1. *Incorporation and general powers.* The Town of Dobson shall continue to be a body politic and corporate under the name of the 'Town of Dobson', and shall continue to be vested with all property and rights which now belong to the Town; shall have perpetual succession; may have a common seal and alter and renew the same at pleasure; may sue and be sued; may contract, may acquire and hold all such property, real and personal, as may be devised, bequeathed, sold or in any manner conveyed or dedicated to it, or otherwise acquired by it, and may from time to time hold, invest, sell, or dispose of the same; and shall have and may exercise in conformity with this Charter all municipal powers, functions, rights, privileges, and immunities of every name and nature.

"Sec. 1.2. *Exercise of powers.* All powers, functions, rights, privileges, and immunities of the Town, its officers, agencies, or employees, shall be carried into execution as provided by this Charter, or, if this Charter makes no provision, as provided by ordinance or resolution of the Board of Commissioners and as provided by the general laws of North Carolina pertaining to municipal corporations.

"Sec. 1.3. *Enumerated powers not exclusive.* The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive but, in addition to the powers enumerated herein or implied hereby, or those appropriate to the exercise of such powers, the Town of Dobson shall have and may exercise all powers which are granted to municipal corporations by the general laws of North Carolina and all powers which, under the Constitution of North Carolina, it would be competent for this Charter specifically to enumerate.

"ARTICLE II.

"Corporate Boundaries.

"Sec. 2.1. *Existing corporate boundaries.* (a) The corporate limits of the Town of Dobson shall be those existing at the time of ratification of this Charter and as the same may be altered from time to time in accordance with law. The Board of Commissioners shall cause to be prepared a map to be designated 'Map of Town of Dobson Corporate Limits', showing the corporate limits as the same may exist as of the effective date of this Charter. The Board of Commissioners shall also cause to be prepared a written description of the corporate limits as shown on said map to be designated 'Description of Dobson Corporate Limits'. Said map and description shall be retained permanently in the Office of the Town Clerk as the official map and a description of the corporate limits of the Town. Immediately upon alteration of the corporate limits made pursuant to law from time to time the Board of Commissioners

shall cause to be made the appropriate changes and/or additions to said official map and description. Photographic copies or other legible and permanent reproductions of said official map or description certified as by law providing for the certification of ordinances shall be admissible into evidence in all courts and shall have the same force and effect as would the official map or description.

(b) The Town Board shall require the redrawing of the official map and the rewriting of the official description as may from time to time be required. A redrawn map and a rewritten description shall supersede for all purposes the earlier maps and descriptions which are respectively replaced.

"Sec. 2.2. *Extension of corporate boundaries.* All extensions of the corporate boundaries shall be governed by the General Statutes of North Carolina.

"ARTICLE III.

"Mayor and Board of Commissioners.

"Sec. 3.1. *Composition of Board of Commissioners.* The Board of Commissioners shall consist of five members to be elected by the qualified voters of the Town voting at large in the manner provided in Article IV of this Charter.

"Sec. 3.2. *Mayor and Mayor Pro Tempore.* The Mayor shall be elected by and from the qualified voters of the Town voting at large in the manner provided in Article IV of this Charter. The Mayor shall be the official head of the Town Government and shall preside at all meetings of the Board of Commissioners. When there is an equal division on a question, the Mayor shall resolve the deadlock by his vote, but he shall vote in no other case. The Mayor shall exercise such powers and perform such duties as are or may be conferred upon him by the general laws of North Carolina, by this Charter, and by the ordinances of the Town. The Board of Commissioners shall choose one of its number to act as Mayor Pro Tempore, and he shall perform the duties of the Mayor in the Mayor's absence or disability. The Mayor Pro Tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the board.

"Sec. 3.3. *Terms; qualifications; vacancies.* (a) The members of the Board of Commissioners shall serve for terms of four years, and the Mayor shall serve for a term of two years, beginning the day and hour of the organizational meeting following their election, as established by ordinance in accordance with this Charter; provided, they shall serve until their successors are elected and qualify.

(b) No person shall be eligible to be a candidate or to be elected as Mayor or as a member of the Board of Commissioners or to serve in such capacity, unless he is a resident and a qualified voter of the Town.

(c) In the event a vacancy occurs in the office of Mayor or Commissioner, the Board shall by majority vote appoint some qualified person to fill the same for the remainder of the unexpired term.

"Sec. 3.4. *Organization of Board of Commissioners; oaths of office.* The Board of Commissioners shall meet and organize for the transaction of business at the first regular meeting in December following each biennial election. Before entering upon their offices, the Mayor and each Commissioner shall take, subscribe to and have entered upon the minutes of the Board the following oath of office:

'I, _____, do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina not inconsistent therewith, and that I

will faithfully discharge the duties of my office as _____, so help me, God.'

"Sec. 3.5. *Meetings of Board.* The Board of Commissioners shall fix a suitable time and place for its regular meetings, which shall be held at least as often as once monthly. Special meetings may be held according to the procedures and requirements designated by the general laws of North Carolina pertaining to special meetings of city councils.

"Sec. 3.6. *Quorum; votes.* (a) A majority of the members elected to the Board of Commissioners shall constitute a quorum for the conduct of business, but a less number may adjourn from time to time and compel the attendance of absent members in such a manner as may be prescribed by ordinance.

(b) The affirmative vote of a majority of the members elected to the Board of Commissioners not excused from voting on the question in issue shall be necessary to adopt any ordinance, or any resolution or motion having the effect of an ordinance. All other matters to be voted upon shall be decided by a majority vote of those present and voting.

"Sec. 3.7. *Ordinances and resolutions.* The adoption, amendment, repeal, pleading, or proving of ordinances shall be in accordance with the applicable provisions of the general laws of North Carolina not inconsistent with this Charter. The ayes and noes shall be taken upon all ordinances and resolutions and entered upon the minutes of the Board. The enacting clause of all ordinances shall be: 'Be it ordained by the Board of Commissioners of the Town of Dobson'. All ordinances and resolutions shall take effect upon adoption unless otherwise provided therein.

"ARTICLE IV.

"Elections.

"Sec. 4.1. *Regular municipal elections.* Regular municipal elections shall be held biennially in odd-numbered years on the day set by general law for municipal elections. In the 1975 regular municipal election and biennially thereafter there shall be elected a Mayor for a term of two years. In the 1975 regular municipal election and quadrennially thereafter, three Commissioners shall be elected to serve terms of four years each. In the 1977 regular municipal election and quadrennially thereafter, two Commissioners shall be elected to serve terms of four years each.

"Sec. 4.2. *Regulation of elections.* All Town elections shall be conducted in accordance with the general laws of North Carolina relating to municipal elections.

"ARTICLE V.

"Town Attorney.

"Sec. 5.1. *Appointment; qualifications; term; compensation.* The Board of Commissioners shall appoint a Town Attorney who shall be an attorney at law licensed to engage in the practice of law in North Carolina and who need not be a resident of the Town during his tenure. The Town Attorney shall serve at the pleasure of the Board and shall receive such compensation as the Board shall determine.

"Sec. 5.2. *Duties of Town Attorney.* It shall be the duty of the Town Attorney to prosecute and defend suits against the Town; to advise the Mayor, Board of Commissioners and other Town officials with respect to the affairs of the Town; to draft all legal documents relating to the affairs of the Town; to draft proposed ordinances when requested to do so; to inspect and pass upon all agreements,

contracts, franchises and other instruments with which the Town may be concerned; to attend all meetings of the Board of Commissioners when required by the Board; and to perform such other duties as may be required of him by virtue of his position as Town Attorney.

"ARTICLE VI.

"Administrative Officers and Employees.

"Sec. 6.1. *Town Clerk.* The Board of Commissioners shall appoint a Town Clerk to keep a journal of the proceedings of the Board of Commissioners and to maintain in a safe place all records and documents pertaining to the affairs of the Town, and to perform such other duties as may be required by law or as the Board of Commissioners may direct.

"Sec. 6.2. *Town Tax Collector.* The Board of Commissioners shall appoint a Tax Collector to collect all taxes, licenses, fees and other moneys belonging to the Town, subject to the provisions of this Charter and the ordinances of the Town, and he shall diligently comply with and enforce all the general laws of North Carolina relating to the collection, sale and foreclosure of taxes by municipalities.

"Sec. 6.3. *Town Budget Officer.* The Board of Commissioners shall appoint a Town Budget Officer to perform the duties of the Budget Officer as required by the Local Government Budget and Fiscal Control Act.

"Sec. 6.4. *Town Finance Officer.* The Board of Commissioners shall appoint a Town Finance Officer to perform the duties of the Finance Officer as required by the Local Government Budget and Fiscal Control Act.

"Sec. 6.5. *Consolidation of functions.* The Board of Commissioners may consolidate any two or more of the positions of Town Clerk, Town Tax Collector, Town Budget Officer, and Town Finance Officer, or may assign the functions of any one or more of these positions to the holder or holders of any other of these positions, subject to the Local Government Budget and Fiscal Control Act.

"ARTICLE VII.

"Finance.

"Sec. 7.1. *Custody of Town money.* All moneys received by the Town for or in connection with the business of the Town government shall be paid promptly into the Town depository or depositories. Such institutions shall be designated by the Town Board in accordance with the regulations and subject to the requirements as to security for deposits and interest thereon as may be established by the General Statutes of North Carolina. All interest on moneys belonging to the Town shall accrue to the benefit of the Town. All moneys belonging to the Town shall be disbursed in accordance with the provisions of the Local Government Budget and Fiscal Control Act.

"Sec. 7.2. *Independent audit.* As soon as possible after the close of each fiscal year, an independent audit shall be made of all books and accounts of the Town government by a certified public accountant or an accountant certified by the Local Government Commission. The audit shall be secured in accordance with the provisions of the Local Government Budget and Fiscal Control Act.

"ARTICLE VIII.

"Police.

"Sec. 8.1. *Jurisdiction.* (a) In addition to their authority within the corporate limits, Town policemen shall have all the powers invested in law enforcement

officers by statute or common law within three miles of the corporate limits of the Town.

(b) The jurisdiction of the police force is hereby extended to include all Town-owned property and facilities whether located within or outside the corporate limits, and all members of the police force shall have upon and within such property and facilities all rights, power and authority as they have within the corporate limits.

"ARTICLE IX.

"Street and Sidewalk Improvements.

"Sec. 9.1. *Street improvements; assessment of costs.* In addition to any authority which is now or may hereafter be granted by general law to the Town for making street improvements, the Board of Commissioners is hereby authorized to make street improvements and to assess the cost thereof against abutting property owners in accordance with the provisions of this Article.

"Sec. 9.2. *When petition unnecessary.* The Board of Commissioners may order street improvements and assess the cost thereof against the abutting property owners, exclusive of the costs incurred at street intersections, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the North Carolina General Statutes without the necessity of a petition, upon the finding by the Board as a fact:

(a) That the street improvement project does not exceed 1,200 linear feet, and

(b) That such street or part thereof is unsafe for vehicular traffic, and it is in the public interest to make such improvement, or

(c) That it is in the public interest to connect two streets, or portions of a street already improved, or

(d) That it is in the public interest to widen a street, or part thereof, which is already improved, provided, that assessments for widening any street or portion of street without a petition shall be limited to the cost of widening and otherwise improving such street in accordance with the street classification and improvement standards established by the Town's thoroughfare or major street plan for the particular street or part thereof to be widened and improved under the authority granted by this Article.

"Sec. 9.3. *Street improvement defined.* For the purposes of this Article, the term 'street improvement' shall include grading, regrading, surfacing, resurfacing, widening, paving, repaving, the acquisition of right-of-way, and the construction or reconstruction of curbs, gutters and street drainage facilities.

"Sec. 9.4. *Sidewalks; assessment of costs.* In addition to any authority which is now or may hereafter be granted by general law to the Town for making sidewalk improvements, the Board of Commissioners is hereby authorized without the necessity of a petition, to make or to order to be made sidewalk improvements or repairs according to standards and specifications of the Town, and to assess the total cost thereof against abutting property owners, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the North Carolina General Statutes; provided, however, that regardless of the assessment basis or bases employed, the Board of Commissioners may order the cost of sidewalk improvements made only on one side of a street to be assessed against property owners abutting both sides of such street.

"Sec. 9.5. *Assessment procedure.* In ordering street and sidewalk improvements without a petition and assessing the cost thereof under authority

of this Article, the Board of Commissioners shall comply with the procedure provided by Article 10, Chapter 160A of the General Statutes, except those provisions relating to the petition of property owners and the sufficiency thereof.

"Sec. 9.6. *Effect of assessments.* The effect of the act of levying assessments under the authority of this Article shall for all purposes be the same as if the assessments were levied under authority of Article 10 of Chapter 160A of the General Statutes.

"Sec. 9.7. *Acceptance of conveyance in satisfaction of assessments.* The Town Tax Collector or other official or employee of the Town having charge of the collection of special assessments, shall have the right, power, and authority by and with the approval of the Board of Commissioners first obtained, to receive and accept a fee simple conveyance to the Town of any lot or parcel of land in the Town, free and clear of other encumbrances, in full settlement and satisfaction of all street and sidewalk assessments outstanding and unpaid against such property. Such right, power, and authority, however, shall be limited to a conveyance of the whole of the lot or parcel of land against which the particular assessment or assessments involved were levied. No lot or tract of land may be divided and no such right, power, and authority exercised as to a part, only, of the property originally embraced in and covered by said assessment or assessments. In the case of such conveyance, it shall not be necessary that the street or sidewalk assessment or assessments against the property be foreclosed; but the Town, upon the receipt of any such conveyance, shall become and be the absolute fee simple owner of the property, as fully to all intents and purposes as if purchased in and through foreclosure proceedings for the enforcement of such street and sidewalk assessment or assessments.

"ARTICLE X.

"Liquor Control Stores.

"Sec. 10.1. *Elections.* (a) The Board of Commissioners of the Town of Dobson may on its own motion, and shall upon receipt of a petition signed by fifteen percent (15%) of the registered voters of the Town, order an election to be held on the question of whether or not a Town liquor control store may be operated in the Town of Dobson. If a majority of the votes cast in such election shall be for the operation of such a store, it shall be legal for a liquor control store to be set up and operated in said Town. If a majority of the votes cast in said election shall be against the operation of a Town liquor control store, no such store shall be set up or operated in said Town under the provisions of this act.

(b) In calling for such special liquor election, the said Board shall give at least 20 days' public notice of the same prior to the closing of the registration books, and said registration books shall remain closed for the same period of time before such special liquor election as is required by law for them to remain closed for a regular Town election. A new registration of voters for such special liquor election shall not be necessary and all qualified electors who are properly registered prior to registration for the special election and those who register in said special liquor election shall be entitled to vote in said election. In said election, a ballot shall be used upon which shall be printed on separate lines for each proposition, 'For Town Liquor Control Store', 'Against Town Liquor Control Store'. Those favoring setting up and operating a liquor store in the Town of Dobson shall place a mark in the voting square to the left of the words 'For Town Liquor Control Store', printed on the ballot. Those opposed to a

Town liquor control store shall place a mark in the voting square to the left of the words 'Against Town Liquor Control Store'. Except as otherwise herein provided, the special election authorized shall be conducted under the same statutes, rules, and regulations applicable to regular elections in the Town.

"Sec. 10.2. *Board of alcoholic control; membership; qualifications; terms; and vacancies.* If the operation of a Town liquor control store is authorized under the provisions of this act, the Mayor and Board of Commissioners of the Town of Dobson shall immediately create a Town board of alcoholic control to be composed of a chairman and two other members who shall be well known for their character, ability, and business acumen. Said board shall be known and designated as 'The Town of Dobson Board of Alcoholic Control'. The chairman of said Board shall be designated by the Mayor and Board of Commissioners and shall serve for his first term a period of three years, and one member shall serve for his first term a period of two years, and the other member shall serve for his first term a period of one year. All terms shall begin with the date of appointment, and after the said terms shall have expired, their successors in office shall serve for a period of three years. Their successors, or any vacancy occurring in the Board, shall be named or filled by the Mayor and the Town Board of Commissioners.

"Sec. 10.3. *Powers and duties of board.* The said Town of Dobson Board of Alcoholic Control shall have all the powers and duties imposed by Section 18A-17, except Section 18A-17(15), of the North Carolina General Statutes relating to county boards of alcoholic control and shall be subject to the powers and authority of the State Board of Alcoholic Control the same as county boards of alcoholic control as provided in Section 18A-15 of the General Statutes. The said Town of Dobson Board of Alcoholic Control and the operation of any Town liquor store authorized under the provisions of this act shall be subject to and in pursuance with the provisions of the North Carolina General Statutes relating to the regulation of intoxicating liquor, except to the extent which the same may be in conflict with the provisions of this act. Wherever the word 'county' board of alcoholic control appears in Article 18A of the General Statutes it shall include the Town of Dobson Board of Alcoholic Control, except as otherwise provided herein.

"Sec. 10.4. *Subsequent elections.* The Board may on its own motion, and shall upon a petition signed by fifteen percent (15%) of all registered voters of the Town, call a subsequent election for the purpose of voting 'For' or 'Against' liquor control stores. If a subsequent election shall be held and at such election a majority of the votes shall be cast 'Against Town Liquor Control Store', the Board shall within three months from the canvassing of such votes and the declarations of the result thereof, close said store and shall thereafter cease to operate the same, and within said three months the Board shall dispose of all alcoholic beverages on hand, all fixtures, and all other property in the hands and under the control of said Board and convert the same into cash and turn the same over to the Town Finance Officer. Thereafter, all Public, Public-Local, Private and Session Laws applicable to the sale of intoxicating beverages within said Town of Dobson in force and effect prior to the authorization to operate a Town liquor store shall be in full force and effect as if such election had not been held, until and unless another election is held under the provisions of this act in which a majority of the votes shall be cast 'For Town Liquor Control Store'. No election shall be called and held in the Town of Dobson under the provisions of

this act within three years from the holding of the last election thereunder. It shall be the duty of the Board of Commissioners of the Town of Dobson to order the special liquor election herein authorized within 60 days after a sufficient petition has been filed requesting the same. But no election under this act shall be held on the day of any biennial county or Town general election or primary election, or within 30 days of any such election.

"Sec. 10.5. *Distribution of net profit.* The net profits derived from the operation of liquor control stores in the Town of Dobson shall, after deducting necessary working capital, salaries, and expenses, be distributed quarterly as follows:

70 % to the general fund of the Town

20 % to the Town for law enforcement

10 % to the Town for parks and recreation

"Sec. 11.1. *Presentation of claims; suit upon claims.* (a) All claims or demands against the Town of Dobson arising in tort or in contract shall be presented to the Board of Commissioners in writing, signed by the claimant or his attorney or agent, within 90 days after the claim or demand is due or the cause of action accrues. No suit or action shall be brought thereon within 30 days, or after the expiration of 12 months, from the time said claim or demand is so presented. Unless the claim or demand is so presented within 90 days after the cause of action accrues, and unless suit is brought within 12 months thereafter, any action thereon is barred.

(b) No action shall be instituted against the Town for damages to or compensation for real property taken or used by the Town for any public purpose, or for the ejectment of the Town therefrom, or to remove a cloud upon the title thereof, unless, within two years after such alleged use, the owner, his executor, administrator, guardian, or next friend, shall have given notice in writing to the Board of Commissioners of the claim, including in the notice the date that the alleged use commenced, a description of the property alleged to have been used, and the amount of the damage or compensation claimed.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, if a complainant suffers from physical or mental incapacity that renders it impossible for him to give notice, his action shall not be barred if notice of claim is given by him or on his behalf within six months after the termination of his incapacity; provided, that minority shall not of itself constitute physical or mental incapacity. If the complainant is a minor, his action shall not be barred if notice of claim is given on his behalf within three years after the occurrence of the infliction of the injury complained of; or, if the minor suffers from physical or mental incapacity that renders it impossible for him to give notice, his action shall not be barred if notice of claim is given on his behalf within six months after termination of the incapacity, or within three years after the occurrence or the infliction of the injury complained of, whichever is the longer period. The Town may at any time request the appointment of a next friend to represent any person having a potential claim against the Town and known to be suffering from physical or mental incapacity."

Sec. 2. The purpose of this act is to revise the Charter of the Town of Dobson and to consolidate herein certain acts concerning the property, affairs, and government of the Town. It is intended to continue without interruption those provisions of prior acts which are consolidated into this act, so that all rights and liabilities that have accrued are preserved and may be enforced.

Sec. 2.1. The 1973 election for Dobson town officers, held in November, 1973, is hereby ratified and validated in all respects.

Sec. 3. This act shall not be deemed to repeal, modify, or in any manner affect any of the following acts, portions of acts, or amendments thereto, whether or not such acts, portions of acts, or amendments are expressly set forth herein:

(a) Any acts concerning the property, affairs, or government of public schools in the Town of Dobson.

(b) Any acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind.

Sec. 4. The following acts or portions of acts, having served the purposes for which they were enacted, or having been consolidated into this act are hereby repealed:

Chapter	Laws
282	Private Laws 1891
518	Public-Local Laws 1939
534	Public-Local Laws 1939
628	Session Laws 1949
438	Session Laws 1971

Sec. 5. No provision of this act is intended, nor shall be construed, to affect in any way any rights or interests (whether public or private):

(a) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act.

(b) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken (including the adoption of ordinances or resolutions) pursuant to or within the scope of any provision of law repealed by this act.

Sec. 6. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(a) The repeal herein of any act repealing such law, or

(b) Any provision of this act that disclaims an intention to repeal or effect enumerated or designated laws.

Sec. 7. (a) All existing ordinances and resolutions of the Town of Dobson, and all existing rules or regulations of departments or agencies of the Town of Dobson, not inconsistent with the provisions of this act, shall continue in full force and effect until repealed, modified or amended.

(b) No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act by or against the Town of Dobson or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

Sec. 8. Severability. If any of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 9. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 10. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of May, 1975.

H. B. 572 CHAPTER 233

AN ACT AMENDING ARTICLE 19 AND ARTICLE 21, CHAPTER 116, OF THE GENERAL STATUTES OF NORTH CAROLINA RELATING TO THE ISSUANCE OF REVENUE BONDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 116-176 as the same appears in the 1974 Cumulative Supplement to Volume 3A of the General Statutes is hereby amended by:

(a) deleting from the second sentence of the first paragraph thereof the words "not exceeding eight per centum (8%) per annum," and

(b) rewriting the last sentence of the first paragraph thereof to read as follows:

"The board may sell such bonds in such manner, at public or private sale, and for such price, as it may determine to be in the best interest of the board."

Sec. 2. G.S. 116-191 is amended by:

(a) deleting from the second sentence of the first paragraph and the third sentence of the seventh paragraph thereof the words "not exceeding eight per centum (8%) per annum",

(b) rewriting the last sentence of the first paragraph thereof to read as follows:

"The board may sell such bonds in such manner, at public or private sale, and for such price, as it may determine to be for the best interests of the board.", and

(c) rewriting the last sentence of the seventh paragraph thereof to read as follows:

"The board may sell such notes in such manner, at public or private sale, and for such price, as it may determine to be for the best interests of the board."

Sec. 3. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 4. This act shall be in full force and effect upon its ratification.

In the General Assembly read three times and ratified, this the 6th day of May, 1975.

H. B. 170 CHAPTER 234

AN ACT TO AMEND ARTICLE 7 OF CHAPTER 163 OF THE GENERAL STATUTES OF NORTH CAROLINA TO SPECIFY WHAT OFFICIALS MAY REGISTER VOTERS.

The General Assembly of North Carolina enacts:

Section 1. Article 7 of Chapter 163 of the General Statutes of North Carolina is amended by adding a new section at the end thereof to read as follows:

"§ 163-80. *Officers authorized to register voters.*—(a) Only the following election officials shall be authorized to register voters:

(1) Any member of a county board of elections who has been duly

appointed pursuant to G.S. 163-22(c) and properly installed as required by G.S. 163-30 and 31.

(2) The Executive Secretary of a county board of elections appointed pursuant to the provisions of G.S. 163-35.

(3) Precinct registrars and judges of election appointed pursuant to the provisions of G.S. 163-41.

(4) Special Registration Commissioners appointed pursuant to the authority and limitation contained in G.S. 163-41(b).

(5) Full-time and salaried Deputy Executive Secretaries employed by the county board of elections and who work under the direct supervision of the board's Executive Secretary appointed pursuant to the provisions contained in G.S. 163-35.

(6) Local public library employees designated by the governing board of such public library to be appointed by the County Board of Elections as special library registration deputies. Persons appointed under this subsection shall be given the oath contained in G.S. 163-41(b), and shall be authorized to accept applications to register on those days and during those hours said special deputies are on duty with their respective libraries.

(b) All election officials authorized to register voters under authority of this section shall not be authorized to register voters who reside outside the boundaries of their respective counties except in those specific instances involving municipalities which lie within the boundaries of two or more counties. The State Board of Elections shall have authority to promulgate rules for the processing of voters in such instances.

(c) All election officials, authorized by this section to register voters, shall register any qualified voter without regard to political party affiliation and without discrimination in any manner whatsoever.

(d) The State Board of Elections shall promulgate rules for the proper training of those persons qualifying under this act as registrars."

Sec. 2. G.S. 163-72(c) and G.S. 163-74(b) are amended by adding the words "or judge of elections, or special library registration deputy" after the word "registrar".

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of May, 1975.

S. B. 161 CHAPTER 235

AN ACT TO APPROVE, CONFIRM AND VALIDATE THAT ACTION OF THE ROCKINGHAM COUNTY BOARD OF COMMISSIONERS OF DECEMBER 2, 1974, WHICH EXTENDED THE LISTING PERIOD DURING WHICH THE SPECIAL PROPERTY TAX CLASSIFICATION PROVIDED THE ELDERLY MAY BE CLAIMED.

The General Assembly of North Carolina enacts:

Section 1. The action of the Rockingham County Board of Commissioners on December 2, 1974, reopening and extending the period authorized under G.S. 105-277.1(c) during which the special property tax classification provided therein for the elderly may be claimed until December 31, 1974, and any property tax refunds authorized to be made by virtue of such

an extension, are hereby approved, confirmed, validated and declared to be proper, valid and legal.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of May, 1975.

S. B. 328 CHAPTER 236

AN ACT TO ALLOW INCOME TAX DEDUCTIONS FOR EXPENSES ACTUALLY INCURRED FOR THE CARE OF DEPENDENTS NECESSARY FOR GAINFUL EMPLOYMENT.

The General Assembly of North Carolina enacts:

Section 1. Article 4 of Subchapter I, Chapter 105 of the General Statutes, is hereby amended by adding a new subsection (26) at the end of G.S. 105-147, to read as follows:

"(26)a. In the case of an individual who maintains a household which includes as a member one or more qualifying individuals, there shall be allowed as a miscellaneous deduction an amount for employment-related expenses as defined in subsection b.2. not to exceed four hundred dollars ($400.00) during any one month.

In the case of such expenses for services outside the taxpayer's household incurred for the care of a qualifying individual described in b.1.(a) below, the amount allowed during any one month shall not exceed one hundred dollars ($100.00) per qualifying individual, subject, however, to the four hundred dollar ($400.00) limitation set out above.

b. For the purposes of this subsection:

1. The term 'qualifying individual' means:
   (a) a dependent of the taxpayer who is under the age of 15 and with respect to whom the taxpayer is entitled to a deduction under G.S. 105-149(5);
   (b) a dependent of the taxpayer who is physically or mentally incapable of caring for himself; or
   (c) the spouse of the taxpayer, if the spouse is physically or mentally incapable of caring for himself or herself.

2. The term 'employment-related expenses' means amounts paid for expenses for household service and for the care of a qualifying individual, but only if such expenses are incurred to enable the taxpayer to be gainfully employed.

3. (a) For the purposes of this subsection, an individual shall be treated as maintaining a household for any period only if over half of the cost of maintaining the household during such period is furnished by such individual.
   (b) In the case of a married person living with his or her spouse and such spouse is maintaining the household, the deduction provided for herein shall be allowed for employment-related expenses in connection with any qualifying individuals, except as limited herein, of the spouse not maintaining the household.

c. Income Limitation. If the adjusted gross income of the taxpayer exceeds eighteen thousand dollars ($18,000) for the taxable year during which the expenses are incurred, the amount of the employment-related expenses incurred

during any month of such year which may be taken into account under this section shall (after the application of subsections d.3.) be further reduced by that portion of one-half of the excess of the adjusted gross income over eighteen thousand dollars ($18,000) which is properly allocable to such month. For purposes of the preceding sentence, if the taxpayer is married during any period of the taxable year, there shall be taken into account the combined adjusted gross incomes of the taxpayer and his spouse for such period.

d. 1. If the taxpayer is married and living with his spouse for any period during the taxable year, there shall be taken into account employment-related expenses incurred during any month of such period only if:

(a) both spouses are gainfully employed on a substantially full time basis, or

(b) the spouse is a qualifying individual described in subsection (b)(1)c.

2. No deduction shall be allowed under this subsection for any amount paid by the taxpayer to an individual bearing a relationship to the taxpayer described in G.S. 105-149(5) (relating to definition of 'dependent'), if that individual resides in the taxpayer's household when the service is performed or is a spouse of the taxpayer.

3. In the case of employment-related expenses incurred during any taxable year solely with respect to a qualifying individual (other than an individual who is also described in subsection (26)b.1.(a)), the amount of such expenses which may be taken into account for purposes of this section shall be reduced:

(a) if such individual is described in subsection (26)b.1.(b), by the amount by which the sum of:

(i) such individual's adjusted gross income for such taxable year, and

(ii) the disability payments received by such individual during such year, exceeds one thousand dollars ($1000), or

(b) in the case of a qualifying individual described in subsection (26)b.1.(c), by the amount of disability payments received by such individual during the taxable year.

For purposes of this paragraph, the term 'disability payment' means a payment (other than a gift) which is made on account of the physical or mental condition of an individual and which is not included in gross income.

e. If a husband and wife are living together at the end of the taxable year, no deduction under this subsection shall be allowed unless they file a combined return for the year.

f. No deduction shall be allowed under this subsection unless the taxpayer completes and attaches to his return the necessary form or forms as may be required by the Secretary of Revenue, nor shall any deduction be allowed under G.S. 105-147(11) for amounts claimed under this subsection."

Sec. 2. G.S. 105-148 is amended by repealing subsection (5) thereof in its entirety.

Sec. 3. This act shall become effective with respect to taxable years beginning on or after January 1, 1975.

In the General Assembly read three times and ratified, this the 7th day of May, 1975.

S. B. 353 **CHAPTER 237**

AN ACT TO AMEND G.S. 110-117 RELATING TO THE AGE OF AN ABUSED AND NEGLECTED CHILD.

The General Assembly of North Carolina enacts:

Section 1. G.S. 110-117(1), as the same appears in Volume 3A of the 1974 Cumulative Supplement to the General Statutes of North Carolina, is hereby amended by substituting on line 1 thereof "18" for "16".

Sec. 2. G.S. 110-117(4), as the same appears in Volume 3A of the 1974 Cumulative Supplement to the General Statutes of North Carolina, is hereby amended by substituting on line 1 thereof "18" for "16".

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of May, 1975.

S. B. 354 **CHAPTER 238**

AN ACT TO AMEND THE DEFINITION OF CHILD IN CHAPTER 7A, ARTICLE 23, JURISDICTION AND PROCEDURE APPLICABLE TO CHILDREN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-278(1) is hereby amended to read as follows:

"(1) 'Child' is any person who has not reached his eighteenth birthday and is not married, emancipated, or a member of the armed services of the United States: Provided that, for the purposes of subdivision (2) of this section, 'child' is any person who has not reached his sixteenth birthday."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of May, 1975.

S. B. 441 **CHAPTER 239**

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF MOORESVILLE AND TO REPEAL PRIOR CHARTER ACTS.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Mooresville is hereby revised and consolidated to read as follows:

"The Charter of the Town of Mooresville.

"ARTICLE I. Incorporation and Corporate Powers.

"Sec. 1.1. *Incorporation and general powers.* The Town of Mooresville shall continue to be a body politic and corporate under the name of the 'Town of Mooresville', and shall continue to be vested with all property and rights which now belong to the Town; shall have perpetual succession; may have a common seal and alter and renew the same at pleasure; may sue and be sued; may contract, may acquire and hold all such property, real and personal, as may be devised, bequeathed, sold or in any manner conveyed or dedicated to it, or otherwise acquired by it, and may from time to time hold, invest, sell, or dispose of the same; and shall have and may exercise in conformity with this Charter all

municipal powers, functions, rights, privileges, and immunities of every name and nature.

"Sec. 1.2. *Exercise of powers.* All powers, functions, rights, privileges, and immunities of the Town, its officers, agencies, or employees, shall be carried into execution as provided by this Charter, or, if this Charter makes no provision, as provided by ordinance or resolution of the Board of Commissioners and as provided by the general laws of North Carolina pertaining to municipal corporations.

"Sec. 1.3. *Enumerated powers not exclusive.* The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive but, in addition to the powers enumerated herein or implied hereby, or those appropriate to the exercise of such powers, the Town of Mooresville shall have and may exercise all other powers which, under the Constitution and laws of North Carolina, now are, or hereafter may be, granted to municipal corporations.

"ARTICLE II. Corporate Boundaries.

"Sec. 2.1. *Existing corporate boundaries.* (a) The corporate limits of the Town of Mooresville shall be those existing at the time of the ratification of this Charter and as the same may be altered from time to time in accordance with law. A map designated 'Map of the Town of Mooresville Corporate Limits' showing the current boundaries of the Town shall be maintained permanently in the office of the town clerk as the official map of the corporate limits of the Town, and shall be available for public inspection. Immediately upon alteration of the corporate limits made pursuant to law from time to time the Board of Commissioners shall cause to be made the appropriate changes and/or additions to said official map. Photographic copies or other legible and permanent reproductions of said official map certified as by law providing for the certification of ordinances shall be admissible into evidence in all courts and shall have the same force and effect as would the official map.

(b) The Town Board shall require the redrawing of the official map as may from time to time be required. A redrawn map shall supersede for all purposes the earlier maps which are respectively replaced.

"Sec. 2.2. *Extension of corporate boundaries.* All extensions of the corporate boundaries shall be governed by the General Statutes of North Carolina.

"ARTICLE III. Mayor and Board of Commissioners.

"Sec. 3.1. *Board of Commissioners.* The Board of Commissioners shall consist of six members to be elected by the qualified voters of the Town voting at large in the manner provided in Article IV of this Charter. The Board of Commissioners, along with the mayor, shall constitute the governing body of the Town.

"Sec. 3.2. *Mayor.* The mayor shall be elected by and from the qualified voters of the Town voting at large in the manner provided in Article IV of this Charter. The mayor shall be the official head of the Town government and shall preside at all meetings of the Board of Commissioners. Where there is an equal division on a question, the mayor shall resolve the deadlock by his vote, but he shall vote in no other case. The mayor shall exercise such powers and perform such duties as are or may be conferred upon him by the general laws of North Carolina, by this Charter, and by the ordinances of the Town.

"Sec. 3.3. *Mayor pro tempore.* The Board of Commissioners shall choose one of its number to act as mayor pro tempore, and he shall perform the duties of the

mayor in the mayor's absence or disability. The mayor pro tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the board.

"Sec. 3.4. *Terms; qualifications; vacancies.* (a) The members of the Board of Commissioners shall serve for terms of four years, and the mayor shall serve for a term of two years, beginning the day and hour of the organizational meeting following their election, provided, they shall serve until their successors are elected and qualify.

(b) No person shall be eligible to be a candidate or to be elected as mayor or as a member of the Board of Commissioners or to serve in such capacity, unless he is a resident and a qualified voter of the Town.

(c) In the event a vacancy occurs in the office of mayor or commissioner, the board shall by majority vote appoint some qualified person to fill the same for the remainder of the unexpired term.

"Sec. 3.5. *Organization of Board of Commissioners; oaths of office.* The Board of Commissioners shall meet and organize for the transaction of business following each biennial election as provided by the uniform municipal election laws of North Carolina. Before entering upon their offices, the mayor and each commissioner shall take, subscribe to and have entered upon the minutes of the board the following oath of office:

'I, _____, do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office as _____, so help me, God.'

"Sec. 3.6. *Meetings of board.* The Board of Commissioners shall fix a suitable time and place for its regular meetings. Special meetings may be held according to the procedures and requirements designated by the general laws of North Carolina pertaining to special meetings of city councils.

"Sec. 3.7. *Ordinances and resolutions.* The adoption, amendment, repeal, pleading, or proving of ordinances shall be in accordance with the applicable provisions of the general laws of North Carolina not inconsistent with this Charter. The ayes and noes shall be taken upon all ordinances and resolutions and entered upon the minutes of the board. The enacting clause of all ordinances shall be: 'Be it ordained by the Board of Commissioners of the Town of Mooresville.' All ordinances and resolutions shall take effect upon adoption unless otherwise provided therein.

"ARTICLE IV. Elections.

"Sec. 4.1. *Conduct of elections.* The general municipal elections shall be conducted in the manner prescribed by the uniform municipal election laws of North Carolina.

The nonpartisan primary and election method shall be used to nominate candidates and determine the results of the Town's elections.

"Sec. 4.2. *Election wards.* The territory located within the corporate limits shall continue to be divided into three election wards. A written description or a map showing the current boundaries of the respective three election wards shall be maintained in the office of the town clerk and shall be available for public inspection.

The ward boundaries of the Town may be amended periodically pursuant to the provisions of general law.

"Sec. 4.3. *Regular municipal elections.* Regular municipal elections shall be held biennially in odd-numbered years on the date set by general law for municipal elections.

At the regular municipal election to be held in 1975, and biennially thereafter, there shall be elected a mayor for a term of two years. The mayor shall be elected at large by all the qualified voters of the Town.

At the regular municipal election to be held in 1975, and on every fourth year thereafter, there shall be elected three commissioners, each to represent one of the three respective election wards, and each to fill the seat of that board member whose term is then expiring.

At the regular municipal election to be held in 1977, and on every fourth year thereafter, there shall be elected three commissioners, each to represent one of the three respective election wards, and each to fill the seat of that board member whose term is then expiring.

All commissioners shall be residents of the ward from which they are elected, and shall be elected by all the qualified voters of the Town. All commissioners shall serve terms of four years and until their successors have been duly elected and qualified, it being the purpose and intention of these provisions to have at least three commissioners with two or more years of board experience in office at all times.

"ARTICLE V. Town Manager.

"Sec. 5.1. *Appointment; compensation.* The Board of Commissioners shall appoint an officer whose title shall be town manager and who shall be the head of the administrative branch of the Town government. The town manager shall be chosen by the Board of Commissioners solely on the basis of his executive and administrative qualifications with respect to the duties of his office as hereinafter prescribed. At the time of his appointment, he need not be a resident of the Town or State, but shall reside therein during his tenure of office. The town manager shall serve at the pleasure of the Board of Commissioners and shall receive such salary as the Board of Commissioners shall fix. In case of absence or disability of the town manager, the board may designate a qualified administrative officer of the Town to perform the duties of the manager during such absence or disability.

"Sec. 5.2. *Powers and duties of the manager.* The town manager shall be responsible to the Board of Commissioners for the proper administration of all the affairs of the Town. In exercising his duties as chief administrator, he shall have the following powers and duties:

(a) He shall appoint and suspend or remove all town employees, whose appointment or removal is not otherwise provided for by law in accordance with such general personnel rules, regulations, policies, or ordinances as the Board of Commissioners may adopt.

(b) He shall direct and supervise the administration of all departments, offices, and agencies of the Town, subject to the general direction and control of the Board of Commissioners, except as otherwise provided by law.

(c) He shall attend all meetings of the Board of Commissioners and recommend any measures that he deems expedient.

(d) He shall see that all laws of the State, the Town Charter and the ordinances, resolutions, and regulations of the Board of Commissioners are faithfully executed within the Town.

(e) He shall prepare and submit the annual budget and capital program to the Board of Commissioners.

(f) He shall annually submit to the Board of Commissioners and make available to the public a complete report on the finances and administrative activities of the Town as of the end of the fiscal year.

(g) He shall make any other reports that the Board of Commissioners may require concerning the operations of the town departments, offices, and agencies subject to his direction and control.

(h) He shall perform any other duties that may be required and authorized by the Board of Commissioners.

"ARTICLE VI. Town Attorney.

"Sec. 6.1. *Appointment; qualifications; term; compensation.* The Board of Commissioners shall appoint a town attorney who shall be an attorney at law licensed to engage in the practice of law in North Carolina and who need not be a resident of the Town during his tenure. The town attorney shall serve at the pleasure of the board and shall receive such compensation as the board shall determine.

"Sec. 6.2. *Duties of town attorney.* It shall be the duty of the town attorney to prosecute and defend suits against the Town; to advise the mayor, Board of Commissioners and other town officials with respect to the affairs of the Town; to draft all legal documents relating to the affairs of the Town; to draft proposed ordinances when requested to do so; to inspect and pass upon all agreements, contracts, franchises and other instruments with which the Town may be concerned; to attend all meetings of the Board of Commissioners when required by the board; and to perform such other duties as may be required of him by virtue of his position as town attorney.

"ARTICLE VII. Administrative Officers and Employees.

"Sec. 7.1. *Town clerk.* The Board of Commissioners shall appoint a town clerk to keep a journal of the proceedings of the Board of Commissioners and to maintain in a safe place all records and documents pertaining to the affairs of the Town, and to perform such other duties as may be required by law or as the Board of Commissioners may direct.

"Sec. 7.2. *Town tax collector.* The Board of Commissioners shall appoint a tax collector to collect all taxes, licenses, fees and other moneys belonging to the Town, subject to the provisions of this Charter and the ordinances of the Town. The town tax collector shall diligently comply with and enforce all the general laws of North Carolina relating to the collection, sale and foreclosure of taxes by municipalities.

"Sec. 7.3. *Town finance officer.* The Board of Commissioners shall appoint a town finance officer to perform the duties of the finance officer as required by the Local Government Budget and Fiscal Control Act.

"Sec. 7.4. *Consolidation of functions.* The Board of Commissioners may consolidate any two or more of the positions of town clerk, town tax collector, and town finance officer, or may assign the functions of any one or more of these positions to the holder or holders of any other of these positions, subject to the Local Government Budget and Fiscal Control Act.

"Sec. 7.5. *Administrative officers and employees not cited.* Consistent with applicable State laws, the Board of Commissioners may establish other positions, provide for the appointment of other administrative officers and

employees, and generally organize the Town government in order to promote the orderly and efficient administration of the affairs of the Town.

"ARTICLE VIII. Street and Sidewalk Improvements.

"Sec. 8.1. *Street improvements; assessment of costs.* In addition to any authority which is now or may hereafter be granted by general law to the Town for making street improvements, the Board of Commissioners is hereby authorized to make street improvements and to assess the cost thereof against abutting property owners in accordance with the provisions of this Article.

"Sec. 8.2. *When petition unnecessary.* The Board of Commissioners may order street improvements and assess the cost thereof against the abutting property owners, exclusive of the costs incurred at street intersections, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the North Carolina General Statutes without the necessity of a petition, upon the finding by the board as a fact:

(a) That the street improvement project does not exceed 1,200 linear feet, and

(b) That such street or part thereof is unsafe for vehicular traffic, and it is in the public interest to make such improvement, or

(c) That it is in the public interest to connect two streets, or portions of a street already improved, or

(d) That it is in the public interest to widen a street, or part thereof, which is already improved, provided, that assessments for widening any street or portion of street without a petition shall be limited to the cost of widening and otherwise improving such street in accordance with the street classification and improvement standards established by the Town's thoroughfare or major street plan for the particular street or part thereof to be widened and improved under the authority granted by this Article.

"Sec. 8.3. *Street improvement defined.* For the purposes of this Article, the term 'street improvement' shall include grading, regrading, surfacing, resurfacing, widening, paving, repaving, the acquisition of right-of-way, and the construction or reconstruction of curbs, gutters and street drainage facilities.

"Sec. 8.4. *Sidewalks; assessment of costs.* In addition to any authority which is now or may hereafter be granted by general law to the Town for making sidewalk improvements, the Board of Commissioners is hereby authorized without the necessity of a petition, to make or to order to be made sidewalk improvements or repairs according to standards and specifications of the Town, and to assess the total cost thereof against abutting property owners, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the North Carolina General Statutes; provided, however, that regardless of the assessment basis or bases employed, the Board of Commissioners may order the cost of sidewalk improvements made only on one side of a street to be assessed against property owners abutting both sides of such street.

"Sec. 8.5. *Assessment procedure.* In ordering street and sidewalk improvements without a petition and assessing the cost thereof under authority of this Article, the Board of Commissioners shall comply with the procedure provided by Article 10, Chapter 160A of the General Statutes, except those provisions relating to the petition of property owners and the sufficiency thereof.

"Sec. 8.6. *Effect of assessments.* The effect of the act of levying assessments under the authority of this Article shall for all purposes be the same as if the

assessments were levied under authority of Article 10 of Chapter 160A of the General Statutes.

"ARTICLE IX. Liquor Control Stores.

"Sec. 9.1. The Board of Commissioners of the Town of Mooresville may on its own motion and shall upon a petition to the board, signed by at least twenty percent (20%) of the registered and qualified voters of the Town, order an election to be held on the question of whether or not Town liquor control stores may be operated in the Town of Mooresville and if a majority of the votes cast in such election shall be for the operation of such stores, it shall be legal for liquor control stores to be set up and operated in the Town, but if a majority of the votes cast in said election shall be against the operation of Town liquor control stores, no such stores shall be set up or operated in the Town under provisions of this Article.

"Sec. 9.2. In calling for such special liquor election, the board shall give at least twenty (20) days' public notice of the same prior to the opening of the registration books, and said registration books shall remain open for the same period of time before such special liquor election as is required by law for them to remain open for a regular election. A new registration of voters for such special liquor election shall not be necessary and all qualified electors who are properly registered prior to registration for the special election and those who register in said special liquor election shall be entitled to vote in said election. In the election a ballot shall be used upon which shall be printed on separate lines for each proposition:

'☐ FOR Town Liquor Control Stores.'

'☐ AGAINST Town Liquor Control Stores.'

Those favoring setting up and operating liquor control stores in the Town of Mooresville shall mark in the voting square to the left of the words 'FOR Town Liquor Control Stores' printed on the ballot, and those opposed to Town liquor control stores shall mark in the voting square to the left of the words 'AGAINST Town Liquor Control Stores'. Except as otherwise herein provided, the special election authorized shall be conducted under the same statutes, rules and regulations applicable to elections for the mayor of the Town of Mooresville. The cost of such election shall be paid from the General Fund of the Town.

"Sec. 9.3. If a subsequent election shall be held and at such election a majority of the votes shall be cast 'AGAINST Town Liquor Control Stores', the Town liquor control board shall within three months from the canvassing of such votes and declaration of the result thereof, close said stores and shall thereafter cease to operate the same, and within three months the Town control board shall dispose of all alcoholic beverages on hand, all fixtures, and all other property in the hands and under the control of said board and convert the same into cash and turn the same over to the town treasurer. Thereafter, all Public, Public-Local, and Private Laws applicable to the sale of intoxicating beverages within the Town in force and effect prior to the authorization to operate Town liquor control stores shall be in full force and effect the same as if such election had not been held until and unless another election is held under the provisions of this Article in which a majority of the votes shall be cast 'FOR Town Liquor Control Stores'. No election shall be called and held in the Town of Mooresville under the provisions of the Article within three years from the holding of the last election thereunder. It shall be the duty of the Board of Commissioners to order the special liquor election herein authorized within sixty (60) days after a

sufficient petition has been filed requesting the same. But no election under this Article shall be held on the day of the biennial, county, or Town of Mooresville general election or primary election, or within thirty (30) days of any such election.

"Sec. 9.4. If the operation of town liquor control stores is authorized under the provisions of this Article, the mayor and Board of Commissioners shall provide for the establishing of a Town Board of Alcoholic Control to be composed of a chairman and two other members who shall be well known for their character, ability, and business acumen. Said board shall be known and designated as 'The Town of Mooresville Board of Alcoholic Control'. The chairman of said board shall be designated by the mayor and commissioners and shall serve for his first term a period of three years, and one member shall serve for his first term a period of two years, and the other member shall serve for a period of one year; and all terms shall begin with the date of their appointment, and after the said terms shall have expired, their successors in office shall serve for a period of three years. Their successors, or any vacancy occurring in the ABC Board shall be named or filled by the mayor and board of commissioners of the town.

"Sec. 9.5. The Town of Mooresville Board of Alcoholic Control shall have all of the powers and duties imposed by Section 18A-17 of the General Statutes of North Carolina on county boards of alcoholic control and shall be subject to the powers and authority of the State Board of Alcoholic Control the same as county boards of alcoholic control as provided in Section 18A-15 of the General Statutes. The Town of Mooresville Board of Alcoholic Control and the operation of any Town liquor stores authorized under the provisions of the Article shall be subject to and in pursuance with the provisions of Article 3 of Chapter 18A of the General Statutes, except to the extent which the same may be in conflict with the provisions of the Article. Wherever the word 'county' board of alcoholic control appears in said Article 3 of Chapter 18A of the General Statutes, it shall include the Town of Mooresville Board of Alcoholic Control.

"Sec. 9.6. The net profits derived from the operation of liquor control stores in the Town of Mooresville after deducting the necessary funds for law enforcement as provided in G.S. 18A-17 shall be divided as follows:

1. Twelve and one-half percent (12-1/2%) shall be turned over to the Iredell County Board of Commissioners to be used exclusively for school purposes.

2. A minimum of twenty-five percent (25%) shall be used by the Board of Commissioners of the Town for the acquisition and improvement of lands and buildings for public parks, playgrounds, and recreational centers and the maintenance and operation of the same.

3. A minimum of twenty-seven and one-half percent (27-1/2%) shall be used by the Mooresville City School Board to operate the Mooresville School District schools at a higher standard than provided by county or State support, including the use of said funds for capital improvements, and to supplement the salaries of public school teachers teaching in the Mooresville School District.

4. The remaining net profits shall be turned over to the Board of Commissioners of the Town to be used for any of the following purposes:

a. To provide additional funds for alcoholic beverage control law enforcement.

b. Any town governmental purpose.

c. To provide funds in addition to the minimum amounts hereinbefore specified for the acquisition and improvement of lands and buildings for public parks, playgrounds, and recreational centers and maintenance and operation of the same.

d. To provide funds in addition to the minimum amounts hereinbefore specified to operate the Mooresville School District schools at a higher standard than provided by county or State support, including the use of said funds for capital improvements, and to supplement the salaries of public school teachers teaching in the Mooresville School District.

e. Acquisition of sites and construction, maintenance and operation of public hospitals.

f. Acquisition, maintenance, operation, enlargement and improvement of public libraries, public art museums, and armories.

"ARTICLE X. Claims Against The Town.

"Sec. 10.1. *Presentation of claims; suit upon claims.* (a) All claims or demands against the Town of Mooresville arising in tort or in contract shall be presented to the Board of Commissioners in writing, signed by the claimant or his attorney or agent, within 90 days after the claim or demand is due or the cause of action accrues. No suit or action shall be brought thereon within 30 days, or after the expiration of 12 months, from the time said claim or demand is so presented. Unless the claim or demand is so presented within 90 days after the cause of action accrues, and unless suit is brought within 12 months thereafter, any action thereon is barred.

(b) No action shall be instituted against the Town for damages to or compensation for real property taken or used by the Town for any public purpose, or for the ejectment of the Town therefrom, or to remove a cloud upon the title thereof, unless within two years after such alleged use, the owner, his executor, administrator, guardian, or next friend, shall have given notice in writing to the Board of Commissioners of the claim, including in the notice the date that the alleged use commenced, a description of the property alleged to have been used, and the amount of the damage or compensation claimed.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, if a complainant suffers from physical or mental incapacity that renders it impossible for him to give notice, his action shall not be barred if notice of claim is given by him or on his behalf within six months after the termination of his incapacity; provided, that minority shall not of itself constitute physical or mental incapacity. If the complainant is a minor, his action shall not be barred if notice of claim is given on his behalf within three years after the occurrence of the infliction of the injury complained of; or, if the minor suffers from physical or mental incapacity that renders it impossible for him to give notice, his action shall not be barred if notice of claim is given on his behalf within six months after termination of the incapacity, or within three years after the occurrence or the infliction of the injury complained of, whichever is the longer period. The Town may at any time request the appointment of a next friend to represent any person having a potential claim against the Town and known to be suffering from physical or mental incapacity.

"ARTICLE XI. Miscellaneous Provisions.

"Sec. 11.1. *Use of parking meter revenues.* The proceeds derived from the use of municipal parking meters in the Town of Mooresville shall be set up and maintained in a special account and fund and used in the discretion of the

governing body of the Town for the establishment and maintenance of such parking meters and for making such parking regulation effective; and in addition thereto, and in the discretion of the governing body of the Town of Mooresville, said proceeds may be used for the establishment, maintenance and operation of any and all recreational facilities of the Town, including playgrounds, recreation centers, and the acquisition of land or buildings for such purposes.

"Sec. 11.2. *Acceptance of deeds in lieu of taxes and special assessments.* When the taxes or any special assessments upon any real property in the Town are past due and unpaid and the owner or owners thereof offer to convey such real property to the Town, the Town is authorized to accept the deed for such real property in payment of the taxes and special assessments due the Town, and to pay the necessary expense of procuring and recording such deed.

The acceptance of said deed by the Town shall not interfere with the lien for taxes or assessments due any taxing unit other than the Town of Mooresville, and shall not interfere with any other valid recorded lien on such real property at the time of the execution of such deed. Any real property so conveyed to the Town may be resold at private sale by the Town at any time to such person or persons and for such price as the Board of Commissioners of the Town offering the said property for sale may approve.

This section amends G.S. 105-357(a) of the Machinery Act.

"Sec. 11.3. *Bird sanctuary established.* The territory within the corporate limits of the Town of Mooresville is hereby declared to be a bird sanctuary.

It shall be unlawful for any person to kill, trap or otherwise take any birds within the corporate limits of the Town except English sparrows, crows, pigeons and starlings. Any person violating the provisions of the section shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than fifty dollars ($50.00) or imprisoned not more than thirty (30) days."

Sec. 2. The purpose of this act is to revise the Charter of the Town of Mooresville and to consolidate herein certain acts concerning the property, affairs, and government of the Town. It is intended to continue without interruption those provisions of prior acts which are consolidated into this act, so that all rights and liabilities that have accrued are preserved and may be enforced.

Sec. 3. This act shall not be deemed to repeal, modify, or in any manner affect any of the following acts, portions of acts, or amendments thereto, whether or not such acts, portions of acts, or amendments are expressly set forth herein:

(a) Any acts concerning the property, affairs, or government of public schools in the Town of Mooresville.

(b) Any acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind.

Sec. 4. The following acts or portions of acts, having served the purposes for which they were enacted, or having been consolidated into this act are hereby repealed:

Chapter	Laws
71	Private Laws 1873
19	Private Laws 1879
68	Private Laws 1885
258	Private Laws 1901

28	Private Laws 1905
17	Private Laws 1907
686	Public Laws 1907
10	Private Laws 1909
315	Private Laws 1909
21	Private Laws 1911
212	Private Laws 1911
79	Private Laws, Extra Session 1913
613	Public-Local Laws 1913
2	Private Laws 1915
351	Public-Local Laws 1915
57	Private Laws 1917
288	Public-Local Laws 1923
39	Private Laws, Extra Session 1924
8	Private Laws 1925
530	Public-Local Laws 1925
682	Public-Local Laws 1927
195	Private Laws 1929
111	Private Laws 1933
89	Public-Local Laws 1937
4	Private Laws 1941
702	Session Laws 1943
58	Session Laws 1947
735	Session Laws 1947
432	Session Laws 1949
451	Session Laws 1949
1218	Session Laws 1949
336	Session Laws 1951
1227	Session Laws 1951
201	Session Laws 1953
503	Session Laws 1953
599	Session Laws 1953
171	Session Laws 1955
51	Session Laws 1957
71	Session Laws 1957
395	Session Laws 1957
537	Session Laws 1959
479	Session Laws 1959
1018	Session Laws 1957
1048	Session Laws 1961
7	Session Laws 1965
38	Session Laws 1969.

Sec. 5. No provision of this act is intended, nor shall be construed, to affect in any way any rights or interest (whether public or private):

(a) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act.

(b) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken (including the adoption of ordinances or

resolutions) pursuant to or within the scope of any provision of law repealed by this act.

Sec. 6. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(a) The repeal herein of any act repealing such law, or

(b) Any provision of this act that disclaims an intention to repeal or effect enumerated or designated laws.

Sec. 7. (a) All existing ordinances and resolutions of the Town of Mooresville and all existing rules or regulations of departments or agencies of the Town of Mooresville not inconsistent with the provisions of this act, shall continue in full force and effect until repealed, modified or amended.

(b) No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act by or against the Town of Mooresville or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

Sec. 8. Severability. If any of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 9. Whenever a reference is made in this act to a particular provision of the General Statutes, and such provision is later amended, repealed or superceded, the reference shall be deemed amended to refer to the amended General Statute, or to the General Statute which most clearly corresponds to the statutory provision which is repealed or superceded.

Sec. 10. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 11. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of May, 1975.

S. B. 551 CHAPTER 240

AN ACT TO CLARIFY THE AUTHORITY OF THE COUNTY COMMISSIONERS UNDER G.S. 18A-15(3)c.2.

The General Assembly of North Carolina enacts:

Section 1. G.S. 18A-15(3)c.2. as the same appears in the 1974 Cumulative Supplement to the General Statutes, is hereby amended by adding a new sentence thereto on line 23, said sentence to be inserted between the sentence ending with the word "alcoholics." and the sentence beginning with the words "The funds", and to read as follows:

"In connection with such projects and programs, the County Commissioners, or such agencies as are by them designated, shall also have the authority to use said funds to purchase or lease real and personal property, and to renovate, remodel, furnish and equip buildings as and when required for the operation of such projects and programs."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of May, 1975.

H. B. 124 CHAPTER 241

AN ACT TO AMEND GENERAL STATUTES 148-45 WHICH RELATES TO ESCAPES FROM PRISON.

The General Assembly of North Carolina enacts:

Section 1. Subsection (g) of G.S. 148-45 is hereby amended to read as follows:

"§ 148-45(g)(1). Any person convicted and in the custody of the North Carolina Department of Correction and ordered or otherwise assigned to work under the work-release program, G.S. 148-33.1, or any convicted person in the custody of the North Carolina Department of Correction and on temporary parole by permission of the State Parole Commission or other authority of law or any youthful offender granted relief under G.S. 148-49.1 et seq., who shall fail to return to the custody of the North Carolina Department of Correction, shall be guilty of the crime of escape and subject to the applicable provisions of this section and shall be deemed an escapee. For the purpose of this subsection, escape is defined to include, but is not restricted to, willfull failure to return to an appointed place and at an appointed time as ordered.

(2) If a person, who would otherwise be guilty of a first violation of G.S. 148-45(g)(1), voluntarily returns to his place of confinement within twenty-four (24) hours of the time at which he was ordered to return, such person shall not be charged with an escape as provided in this section but shall be subject to such administrative action as may be deemed appropriate for an escapee by the Department of Correction; said escapee shall not be allowed to be placed on work-release for a four-month period or for the balance of his term if less than one year; provided, however, that if such person commits a subsequent violation of this section then such person shall be charged with that offense and, if convicted, punished under the provisions of this section."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of May, 1975.

H. B. 613 CHAPTER 242

AN ACT TO AMEND G.S. 105-113.82 BY ADDING THE TOWN OF ZEBULON AND THE TOWN OF PINK HILL TO THE LIST OF GOVERNING BODIES AUTHORIZED TO DECLINE TO ISSUE THE ON-PREMISES LICENSES PROVIDED FOR IN G.S. 105-113.78(1).

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-113.82 is amended by adding to the last sentence thereof, following the words "the Town of Aulander", the words "the Town of Pink Hill and the Town of Zebulon", and by deleting the word "and" before the words "the Town of Aulander" and substituting in lieu thereof a comma.

Sec. 2. The Town of Zebulon and the Town of Pink Hill shall be authorized in its discretion to decline to issue the "on-premises" licenses provided for in G.S. 105-113.77(1).

Sec. 3. This act shall become effective October 1, 1975.

In the General Assembly read three times and ratified, this the 7th day of May, 1975.

S. B. 133

CHAPTER 243

AN ACT TO AMEND CHAPTER 62 OF THE GENERAL STATUTES TO ENLARGE THE NORTH CAROLINA UTILITIES COMMISSION, TO ALLOW THE COMMISSION TO SIT IN PANELS OF THREE, TO ALLOW THE PANELS TO MAKE VALID AND BINDING DECISIONS, AND TO REQUIRE A SEPARATE HEARING ON RATE INCREASES BASED SOLELY UPON FUEL COSTS.

The General Assembly of North Carolina enacts:

Section 1. This act shall not terminate the pre-existing commission or appointments thereto, or any certificates, permits, orders, rules or regulations issued by it or any other action taken by it, unless and until revoked by it, nor affect in any manner the existing franchise, territories, tariffs, rates, contracts, service regulations and other obligations and rights of public utilities, unless and until altered or modified by or in accordance with the provisions of Chapter 62 of the General Statutes.

Sec. 2. G.S. 62-3 is hereby amended by adding to it a subsection (30) to read as follows:

"(30) 'Panel' means a panel of three commissioners, a division of the Utilities Commission authorized for the purpose of carrying out certain functions of the commission."

Sec. 3. Article 2 of Chapter 62 of the General Statutes is hereby amended by deleting the present G.S. 62-10 in its entirety and adding a new G.S. 62-10 to read as follows:

"§ 62-10. *Number, appointment and terms of commissioners; chairmen; vacancies; compensation; practice of law prohibited.*—(a) The North Carolina Utilities Commission shall consist of seven commissioners who shall be appointed by the Governor subject to confirmation by the General Assembly in joint session. The names of commissioners to be appointed by the Governor shall be submitted by the Governor to the General Assembly for confirmation by the General Assembly on or before May 1 of the year in which the terms for which the appointments are to be made are to expire. Upon failure of the Governor to submit names as herein provided, the Lieutenant Governor and Speaker of the House jointly shall submit the names of a like number of commissioners to the General Assembly on or before May 15 of the same year for confirmation by the General Assembly. Regardless of the way in which names of commissioners are submitted, confirmation of commissioners must be accomplished prior to adjournment of the then current session of the General Assembly. This subsection shall be subject to the provisions of subsection (c) of this section.

(b) The terms of the commissioners now serving shall expire at the conclusion of the term for which they were appointed which shall remain as before with two regular eight-year terms expiring on July 1 of each fourth year after July 1, 1965, and the fifth term expiring on July 1 of each eighth year after July 1, 1963. The terms of office of utilities commissioners thereafter shall be eight years commencing on July 1 of the year in which the predecessor terms expired, and ending on July 1 of the eighth year thereafter.

(c) In order to increase the number of commissioners to seven, the names of two additional commissioners shall be submitted to the General Assembly on or before May 27, 1975, for confirmation by the General Assembly as provided in G.S. 62-10(a). The commissioners so appointed and confirmed shall serve new

terms commencing on July 1, 1975, one of which shall be for a period of two years (with the immediate successor serving for a period of six years), and one of which shall be for a period of two years.

Thereafter, the terms of office of the additional commissioners shall be for eight years as provided in G.S. 62-10(b).

(d) A commissioner in office shall continue to serve until his successor is duly confirmed and qualified but such holdover shall not affect the expiration date of such succeeding term.

(e) On July 1, 1965, and every four years thereafter, one of the commissioners shall be designated by the Governor to serve as chairman of the commission for the succeeding four years and until his successor is duly confirmed and qualifies.

(f) In case of death, incapacity, resignation or vacancy for any other reason in the office of any commissioner prior to the expiration of his term of office, the name of his successor shall be submitted by the Governor within four weeks after the vacancy arises to the General Assembly for confirmation by the General Assembly. Upon failure of the Governor to submit the name of the successor, the Lieutenant Governor and Speaker of the House jointly shall submit the name of a successor to the General Assembly within six weeks after the vacancy arises. Regardless of the way in which names of commissioners are submitted, confirmation of commissioners must be accomplished prior to the adjournment of the then current session of the General Assembly. If the General Assembly is not in session and the appointment is deemed urgent by the Governor, the commissioner may be appointed and serve on an interim basis pending confirmation by the General Assembly.

(g) The salary of each commissioner shall be the same as that fixed from time to time for judges of the superior court except that the commissioner designated as chairman shall receive one thousand dollars ($1,000) additional per annum.

(h) The prohibition of the practice of law by judges provided in G.S. 84-2 shall also apply to all of the commissioners."

Sec. 4. Article 4 of Chapter 62 of the General Statutes is hereby amended by adding a new section to be designated G.S. 62-60.1, and to read as follows:

"§ 62-60.1. *Commission to sit in panels of three.*—(a) The Utilities Commission shall sit in panels of three commissioners each unless the chairman by order shall set the proceeding for hearing by the full commission. The chairman of the commission insofar as practicable shall assign the members to panels in such fashion that each member sits a substantially equal number of times with each other member and that each member sits a substantially equal number of times on different types of proceedings. The chairman shall designate the presiding commissioner of all panels in a rotating manner.

(b) Any order or decision made unanimously by a panel of three commissioners shall constitute the order or decision of the commission, except as otherwise provided in this Chapter; provided, however, that upon motion of any three commissioners not sitting on the panel, made within 10 days of issuance of such order or decision of the panel, with notice to parties of record, the order or decision of the panel shall thereby be stayed and the full commission shall review the order or decision of the panel and shall within 30 days of said motion either affirm or modify the order or decision of the panel or remand the matter to the panel for further proceedings; provided that the

foregoing shall not limit the right of parties to seek review of such order or decision under G.S. 62-90.

(c) In the event an order or decision of the panel of three is not made unanimously, such order or decision shall be a recommended order only subject to review by the full commission, with all commissioners eligible to participate in the final arguments and decision. Review shall take place in accordance with the provisions of G.S. 62-78 and the commission shall decide the matter in controversy and make appropriate order or decision thereon within 60 days of the date of the recommended order. If within the filing period specified by the panel no exception has been filed by a party, or if the commission within the same period has not advised the parties that it will conduct a review upon its own motion, the recommended order or decision shall become the final order or decision of the commission. Nothing in this section shall amend or repeal the provisions of G.S. 62-134.

(d) This section shall become effective July 1, 1975, and shall not affect the utilization of or the procedures outlined for utilization of a hearing commissioner or a hearing examiner as provided for elsewhere in Chapter 62."

Sec. 5. G.S. 62-76(b) is hereby deleted in its entirety.

Sec. 6. G.S. 62-81(a), as the same appears in the 1974 Cumulative Supplement to Volume 2B, is hereby amended as follows:

(1) by inserting after the words "The Commission" at the beginning of the second sentence the words "shall hear such cases as provided in G.S. 62-60.1 and "

(2) by designating the entire paragraph as subsection "(a)".

(3) by adding a subsection (b) to read as follows:

"(b) In matters where the total annual revenue requested or where the total annual revenue increase requested is less than fifty thousand dollars ($50,000), even though all or a substantial portion of the rate structure is being initially established or is under review, the chairman of the commission may refer the matter to a panel of three commissioners, or to a hearing commissioner or to a hearing examiner for hearing."

Sec. 7. G.S. 62-82(a), as the same appears in the 1974 Cumulative Supplement to Volume 2B, is hereby amended as follows:

(1) by deleting the words and punctuation "by the full commission," from lines 14 and 15, and substituting therefor the words and punctuation "as provided in G.S. 62-60.1".

(2) by inserting after the word "commission" on lines 17, 18, 19, 20 and 22 the words "or panel".

Sec. 8. G.S. 62-134 is hereby amended by adding a new subsection (e) to read as follows:

"(e) Notwithstanding the provisions of this Article, upon application by any public utility for permission and authority to increase its rates and charges based solely upon the increased cost of fuel used in the generation or production of electric power, the commission shall suspend such proposed increase for a period not to exceed 90 days beyond the date of filing of such application to increase rates. Upon motion of the commission or application of any person having an interest in said rate, the commission shall set for hearing any request for decrease in rates or charges based solely upon a decrease in the cost of fuel. The commission shall promptly investigate applications filed pursuant to provisions of this subsection and shall hold a public hearing within 30 days of

the date of the filing of the application to consider such application, and shall base its order upon the record adduced at the hearing, such record to include all pertinent information available to the commission at the time of hearing. The order responsive to an application shall be issued promptly by the commission but in no event later than 90 days from the date of filing of such application. A proceeding under this subsection shall not be considered a general rate case. All monthly fuel adjustment rate increases based solely upon the increased cost of fuel, as to each public utility, as presently approved by the commission shall fully terminate effective September 1, 1975, except that the same shall be earlier terminated as to each such public utility upon the effective date of any final order of the commission under this section; provided, however, that the termination date of September 1, 1975, shall not apply to any public utility which has filed an application under this subsection on or before July 1, 1975, and where the commission has not issued a final order by September 1, 1975."

Sec. 9. Conforming changes. Chapter 62 of the General Statutes is hereby amended by adding the words "panel of three commissioners" for the words "division of the commission", or the words "hearing division of commission", or the words "hearing division", as such words now appear in the following sections and subsections and on the following lines:

(a) G.S. 62-13(b), lines two and three;
(b) G.S. 62-71(a), line two;
(c) G.S. 62-76, section title;
(d) G.S. 62-76(a), lines three and six;
(e) G.S. 62-77, section title;
(f) G.S. 62-77, lines one and two;
(g) G.S. 62-78(a), line three;
(h) G.S. 62-78(b), line one;
(i) G.S. 62-78(c), line one; and
(j) G.S. 62-81(b), as the same appears in the 1974 Cumulative Supplement to Volume 2B, line five.

Sec. 10. Further conforming changes. Chapter 62 of the General Statutes is hereby further amended by adding the word "panel" for the word "division" as such word now appears in the following subsections and on the following lines:

(a) G.S. 62-13(b), line five;
(b) G.S. 62-76(a), line ten; and
(c) G.S. 62-78(a), line six.

Sec. 11. Except as herein amended, the provisions of Chapter 62 of the General Statutes of North Carolina shall remain in full force and effect. To the extent that other laws or clauses of laws are in conflict with the provisions of this act, such laws and clauses are, to that extent, hereby repealed.

Sec. 12. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1975.

S. B. 443 **CHAPTER 244**

AN ACT TO REPEAL G.S. 130-22.1 RELATING TO THE METHOD OF APPOINTING MEMBERS TO MUNICIPAL HEALTH BOARDS EXISTING ON JUNE 1, 1959.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-22.1, as it appears in Volume 3B of the General Statutes, is hereby repealed.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1975.

S. B. 496 **CHAPTER 245**

AN ACT TO AMEND THE CHARTER OF THE CITY OF GOLDSBORO TO PROVIDE FOR FOUR YEAR TERMS FOR THE MAYOR AND MEMBERS OF THE BOARD OF ALDERMEN BEGINNING WITH THE ELECTION OF 1975.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the City of Goldsboro, as the same appears in Section 1 of Chapter 69, Session Laws of 1973, is hereby amended on line two of subsection (a) of Section 3.3 of the said Charter by deleting the word "two" and substituting in lieu thereof the word "four".

Sec. 2. It is hereby provided that this act shall not affect the terms of the mayor or members of the board of aldermen elected prior to the election of 1975. The intention of this act is to increase the terms from two years to four years beginning with the mayor and members of the board of aldermen elected in 1975.

Sec. 3. This act shall become effectvie upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1975.

S. B. 497 **CHAPTER 246**

AN ACT TO MAKE THE GENERAL PRIMARY LAWS APPLICABLE TO THE NOMINATION OF COUNTY OFFICERS IN MITCHELL COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The provisions of the general primary laws of Chapter 163 of the General Statutes shall be applicable in Mitchell County for the purpose of nominating the candidates of the Republican Party for all county offices.

Sec. 2. All local acts and all laws and clauses of laws in conflict with this act are repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1975.

S. B. 608 **CHAPTER 247**

AN ACT TO AMEND CHAPTER 26 OF THE PRIVATE LAWS OF 1937, AS AMENDED, TO PROVIDE THAT THE FIREMEN'S PENSION FUND OF WILMINGTON SHALL BE ADMINISTERED BY THE PENSION BOARD OF THE CITY OF WILMINGTON.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 26 of the Private Laws of 1937, as amended, is hereby rewritten to read as follows:

"Section 1. The Firemen's Pension Fund of Wilmington, North Carolina, as created by Chapter 26 of the Private Laws of 1937, shall be administered by the Pension Board of the City of Wilmington, which was established by ordinance pursuant to Chapter 995 of the Session Laws of 1963 and Section 3(e) thereof, as amended, to administer the Wilmington Employees' Retirement Fund. Said board shall have the same powers and responsibilities with regard to the administration of this fund as it has with regard to the administration of the Wilmington Employees' Retirement Fund.

The Director of Finance of the City of Wilmington shall be, and is hereby appointed, as Clerk and Treasurer of the Firemen's Pension Fund of Wilmington, North Carolina."

Sec. 2. Chapter 26 of the Private Laws of 1937, as amended, is hereby further amended by striking out the words "Board of Trustees for the Firemen's Pension Fund of Wilmington, North Carolina" and substituting therefor the words "Pension Board for the Firemen's Pension Fund of Wilmington, North Carolina" in the heading thereof and wherever else these words appear therein; by striking out the words "board of trustees" and substituting therefor the words "pension board" wherever these words appear therein; and, by striking out the word "trustees" and substituting therefor the words "members of the pension board" wherever this word appears therein.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1975.

S. B. 609 **CHAPTER 248**

AN ACT TO AMEND CHAPTER 995 OF THE 1963 SESSION LAWS TO PROVIDE FOR THE APPOINTMENT OR ELECTION OF A RETIREMENT BOARD FOR EMPLOYEES OF THE CITY OF WILMINGTON.

The General Assembly of North Carolina enacts:

Section 1. Section 3(e) of Chapter 995 of the 1963 Session Laws is hereby rewritten as follows:

"(e) The ordinance may provide for the appointment or election of a retirement board and for the delegation to such board of such powers and duties as may be deemed necessary to carry out the intent and purpose for which the fund is established."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1975.

S. B. 610

CHAPTER 249

AN ACT TO AMEND CHAPTER 55 OF THE PRIVATE LAWS OF 1915, AS AMENDED, TO PROVIDE THAT THE POLICE PENSION FUND OF WILMINGTON SHALL BE ADMINISTERED BY THE PENSION BOARD OF THE CITY OF WILMINGTON.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 55 of the Private Laws of 1915, as amended, is hereby rewritten to read as follows:

"Section 1. The Police Pension Fund of Wilmington, North Carolina, as created by Chapter 55 of the Private Laws of 1915 and laws amendatory thereof, shall be administered by the Pension Board of the City of Wilmington, which was established by ordinance pursuant to Chapter 995 of the Session Laws of 1963 and Section 3(e) thereof, as amended, to administer the Wilmington Employees' Retirement Fund. Said board shall have the same powers and responsibilities with regard to the administration of this fund as it has with regard to the administration of the Wilmington Employees' Retirement Fund."

Sec. 2. Chapter 55 of the Private Laws of 1915, as amended, is hereby further amended by striking out the words "Board of Trustees of the Police Pension Fund of Wilmington, North Carolina" and substituting therefor the words "Pension Board of the Police Pension Fund of Wilmington, North Carolina" wherever these words appear therein; by striking out the word "trustee" and substituting therefor the words "members of the pension board" wherever this word appears therein; and, by striking out the words "board of trustees" and substituting therefor the words "pension board" wherever these words appear therein.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1975.

S. B. 617

CHAPTER 250

AN ACT TO AMEND CHAPTER 708 OF THE SESSION LAWS OF NORTH CAROLINA OF 1943, AS AMENDED, TO PROVIDE THAT THE RETIREMENT SYSTEM OF THE CITY OF WILMINGTON SHALL BE ADMINISTERED BY THE PENSION BOARD OF THE CITY OF WILMINGTON.

The General Assembly of North Carolina enacts:

Section 1. Chapter 708 of the Session Laws of 1943, as amended, is hereby amended as follows:

(a) By rewriting Section 1 as follows:

"Section 1. The Retirement System of the City of Wilmington, as created by Chapter 708 of the Session Laws of 1943, shall be administered by the Pension Board of the City of Wilmington, which was established by ordinance pursuant to Chapter 995 of the Session Laws of 1963 and Section 3(e) thereof, as amended, to administer the Wilmington Employees' Retirement Fund. Said board shall have the same powers and responsibilities with regard to the administration of this fund as it has with regard to the administration of the Wilmington Employees' Retirement Fund.

The Director of Finance of the City of Wilmington shall be, and is hereby appointed as clerk and treasurer of the retirement system.

The object of this act is to provide a retirement fund for any permanently disabled or superannuated employee of said City as hereinafter provided, and to provide necessary funds to continue payments of compensation to those persons who may be placed on the retirement rolls of said City."

(b) By striking out the words "board of trustees" and substituting therefor the words "pension board" wherever these words appear therein; by striking out the word "trustees" and substituting therefor the words "members of the pension board" wherever this word appears therein; and by striking out the words "Board of Trustees for the Retirement System of the City of Wilmington" and substituting therefor the words "Pension Board for the Retirement System of the City of Wilmington" wherever these words appear therein.

(c) By striking out the words "three years" in line 4 of subsection (b) of Section 6 and substituting therefor the words "one year".

(d) By adding a second paragraph to subsection 8-1/2(b), as amended by Chapter 938 of the Session Laws of 1973, to read as follows:

"That when any employee member of the retirement system, who has been employed by the City for at least 10 years, dies leaving a surviving spouse, in that event such surviving spouse shall receive from the retirement fund a monthly benefit until his or her remarriage or death, equal to fifty percent (50%) of the amount which would have been paid to the employee member had he or she been retired at the time of his or her death."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1975.

S. B. 247 CHAPTER 251

AN ACT TO AMEND THE REGIONAL SEWAGE DISPOSAL PLANNING ACT OF 1971, G.S. 162A-26 ET SEQ., CONCERNING QUALIFICATION FOR FEDERAL AND STATE GRANTS, CONDITIONS FOR PLANNING ADVANCES, AND REPAYMENT OF ADVANCES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 162A-27 is amended by rewriting the section heading to read as follows: "Definitions of regional sewage disposal system, and comprehensive planning." and by inserting after "counties." in line 8 the following:

"'Comprehensive planning' is defined as that planning which is a prerequisite for qualifying for receipt of federal and/or State grant funds for preparation of plans and specifications and for actual construction of regional sewage disposal systems."

Sec. 2. G.S. 162A-28, as the same appears in the 1974 Cumulative Supplement to Volume 3D of the General Statutes, is hereby amended by rewriting subdivision (2) to read:

"(2) Identify geographical areas of the State suitable for the development of regional sewage disposal systems that meet federal and State grant requirements."

Sec. 3. G.S. 162A-29(c) is amended by adding a new subsection (3) to read:

"(3) The applicant has furnished evidence that it does not have funds available to finance the plan."

Sec. 4. G. S. 162A-29(d) is amended by inserting between the words "full", and "within" in line 1, the phrase "upon receipt of any sewage disposal facilities planning grant funds from federal or State sources, or".

Sec. 5. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 12th day of May, 1975.

S. B. 276 CHAPTER 252

AN ACT TO AMEND G.S. 1-17 SO AS TO ELIMINATE IMPRISONMENT AS A DISABILITY UNDER THE STATUTE OF LIMITATIONS AND TO SUBJECT THE CIVIL RIGHTS ACT OF 1871, 42 U.S.C. § 1983, TO THE NORTH CAROLINA STATUTE OF LIMITATIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1-17 is hereby rewritten to read as follows: "A person entitled to commence an action, who is at the time the cause of action accrued either

(1) within the age of 18 years; or (2) insane;

may bring his action within the time herein limited, after the disability is removed, except in an action for the recovery of real property, or to make an entry or defense founded on the title to real property, or to rents and services out of the same, when he must commence his action, or make his entry, within three years next after the removal of the disability, and at no time thereafter."

Sec. 2. G.S. 1-52(2) is hereby rewritten to read as follows: "Upon a liability created by statute, either state or federal, unless some other time is mentioned in the statute creating it."

Sec. 3. For those persons under a disability on the effective date of this Chapter as a result of being imprisoned on a criminal charge, or in execution under sentence for a criminal offense, the statute of limitations shall commence to run and no longer be tolled from the effective date of the enactment of this Chapter.

Sec. 4. G.S. 1-52 is hereby amended to add a new subsection as follows:

"(13) against a public officer, for a trespass, under color of his office."

Sec. 5. G.S. 1-54, subsection (1) is deleted and the remaining subsections of G.S. 1-54 are renumbered accordingly.

Sec. 6. This act shall be in full force and effect January 1, 1976.

In the General Assembly read three times and ratified, this the 12th day of May, 1975.

S. B. 294 **CHAPTER 253**

AN ACT TO REPEAL ARTICLE 3 OF CHAPTER 113 OF THE GENERAL STATUTES, ENTITLED "PRIVATE LANDS DESIGNATED AS STATE FOREST."

The General Assembly of North Carolina enacts:

Section 1. Article 3 of Chapter 113 of the General Statutes is hereby repealed.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of May, 1975.

S. B. 555 **CHAPTER 254**

AN ACT TO AMEND G.S. 62-3(23)d TO FURTHER DEFINE THE TERM "PUBLIC UTILITY".

The General Assembly of North Carolina enacts:

Section 1. G.S. 62-3(23)d as the same appears in the 1974 Cumulative Supplement to Volume 2B of the General Statutes is hereby amended on line 2 thereof after the word and punctuation "municipality," and before the word and punctuation "electric," by inserting the following:

"an authority organized under the North Carolina Water and Sewer Authorities Act,".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of May, 1975.

S. B. 594 **CHAPTER 255**

AN ACT TO AMEND G.S. 97-44 RELATING TO LUMP SUM PAYMENTS UNDER THE WORKMEN'S COMPENSATION ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 97-44, as the same presently appears in the 1972 Replacement Volume 2D of the General Statutes of North Carolina is hereby amended on line 3 by striking the words "the parties agree and".

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of May, 1975.

H. B. 8 CHAPTER 256

AN ACT TO RAISE THE MINIMUM WAGE TO TWO DOLLARS PER HOUR.

The General Assembly of North Carolina enacts:

Section 1. G.S. 95-87, as the same appears in the 1974 Cumulative Supplement to Volume 2C, is hereby amended on line 2 by deleting the words and figures "one dollar and eighty cents ($1.80)" and inserting in lieu thereof the words and figures "two dollars ($2.00)".

Sec. 2. This act shall become effective October 1, 1975 and shall apply only to those establishments not covered by the Federal Fair Labor Standards Act.

In the General Assembly read three times and ratified, this the 12th day of May, 1975.

H. B. 133 CHAPTER 257

AN ACT TO PROTECT THE RIGHT OF PRIVACY OF STATE EMPLOYEES BY LIMITING ACCESS TO PERSONNEL RECORDS.

The General Assembly of North Carolina enacts:

Section 1. A new Article 9 is added to G.S. Chapter 126 to read as follows:

"Article 9.

"The Privacy of State Employee Personnel Records.

"§ 126-24. Personnel files of State employees shall not be subject to inspection and examination as authorized by G.S. 132-6.

"§ 126-25. Each department, agency, institution, commission and bureau of the State shall maintain a record of each of its employees, showing the following information with respect to each such employee: name, age, date of original employment or appointment to the State service, current position title, current salary, date and amount of most recent increase or decrease in salary, date of most recent promotion, demotion, transfer, suspension, separation, or other change in position classification, and the office or station to which the employee is currently assigned. Subject only to rules and regulations for the safekeeping of the records, adopted by the State Personnel Board, every person having custody of such records shall permit them to be inspected and examined and copies thereof made by any person during regular business hours. Any person who is denied access to any such record for the purpose of inspecting, examining or copying the same, shall have a right to compel compliance with the provisions of this section by application to a court of competent jurisdiction for a writ of mandamus or other appropriate relief.

"§ 126-26. All other information contained in a State employee's personnel file is confidential and shall not be open for inspection and examination except to the following persons:

(1) the employee, or his properly authorized agent, who may examine his own personnel file in its entirety except for (a) letters of reference solicited prior to employment, or (b) information concerning a medical disability, mental or physical, that a prudent physician would not divulge to a patient. An employee's medical record may be disclosed to a licensed physician designated in writing by the employee;

(2) the supervisor of the employee;

(3) members of the General Assembly who may inspect and examine personnel records under the authority of G.S. 120-19;

(4) a party by authority of a proper court order may inspect and examine a particular confidential portion of a State employee's personnel file; and

(5) an official of an agency of the federal government, State government or any political subdivision thereof. Such an official may inspect any personnel records when such inspection is deemed by the department head of the employee whose record is to be inspected as necessary and essential to the pursuance of a proper function of said agency; provided, however, that such information shall not be divulged for purposes of assisting in a criminal prosecution, nor for purposes of assisting in a tax investigation.

"§ 126-27. An employee who objects to material in his file may place in his file a statement relating to the material he considers to be inaccurate or misleading. An employee who objects to material in his file because he considers it inaccurate or misleading may seek the removal of such material from his file in accordance with the grievance procedure of that department, including appeal to the State Personnel Board.

"§ 126-28. The State Personnel Board shall prescribe such rules and regulations as it deems necessary to implement the provisions of this Article.

"§ 126-29. Any public official or employee who shall knowingly and willfully permit any person to have access to or custody or possession of any portion of a personnel file designated as confidential by this Article, unless such person is one specifically authorized by G.S. 126-26 to have access thereto for inspection and examination, shall be guilty of a misdemeanor and upon conviction shall be fined in the discretion of the court but not in excess of five hundred dollars ($500.00).

"§ 126-30. Any person, not specifically authorized by G.S. 126-26 to have access to a personnel file designated as confidential by this Article, who shall knowingly and willfully examine in its official filing place, remove or copy any portion of a confidential personnel file shall be guilty of a misdemeanor and upon conviction shall be fined in the discretion of the court but not in excess of five hundred dollars ($500.00)."

Sec. 2. This act shall become effective on January 1, 1976.

In the General Assembly read three times and ratified, this the 12th day of May, 1975.

H. B. 205 CHAPTER 258

AN ACT TO AUTHORIZE COUNTIES TO OFFER REWARDS FOR INFORMATION LEADING TO THE ARREST AND CONVICTION OF PERSONS DAMAGING COUNTY PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. Article 2 of Chapter 153A of the General Statutes is amended by adding a new section at the end to read:

"§ 153A-15. *Board of commissioners; reward for damage to county property.*—The board of county commissioners is authorized to offer and pay rewards in an amount not exceeding five hundred dollars ($500.00) for information leading to the arrest and conviction of any person who willfully defaces, damages or destroys, or commits acts of vandalism or larceny of any

county property. The amount necessary to pay said rewards shall be an item in the current expense budget of the county."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of May, 1975.

H. B. 227 CHAPTER 259

AN ACT TO AMEND G.S. 30-17 RELATING TO WHEN CHILDREN OF A DECEASED PARENT ARE ENTITLED TO A YEAR'S ALLOWANCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 30-17, as the same appears in the 1974 Cumulative Supplement of the General Statutes, is hereby amended by substituting a comma for the period after the word "child" on line 5 of the second paragraph and by adding the following: "regardless of whether the deceased died testate or intestate or whether the widow dissented from the will."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of May, 1975.

H. B. 322 CHAPTER 260

AN ACT TO REWRITE G.S. 24-1.1A REMOVING THE INTEREST RATE CEILING ON HOME LOANS SECURED BY FIRST MORTGAGES OR FIRST DEEDS OF TRUST AND REMOVING PREPAYMENT PENALTIES ON CERTAIN HOME LOANS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 24-1.1A as the same appears in the 1974 Cumulative Supplement to Volume 1D of the General Statutes is hereby rewritten to read as follows:

"§ 24-1.1A. *Contract rates on home loans secured by first mortgages or first deeds of trust.*—(a) Notwithstanding any other provision of this Chapter, parties to a home loan secured by a first mortgage or a first deed of trust may contract in writing for the payment of interest as agreed upon by the parties.

(b) No prepayment fees shall be contracted by the borrower and lender with respect to any home loan secured by a first mortgage or first deed of trust where the principal amount borrowed is one hundred thousand dollars ($100,000) or less. The provisions of G.S. 24-10(b) relating to prepayment fees shall apply to home loans secured by a first mortgage or first deed of trust where the principal amount borrowed is in excess of one hundred thousand dollars ($100,000).

(c) Except as limited by subsection (b) above, a lender may charge to the borrower the fees provided in G.S. 24-10.

(d) The loans or investments regulated by G.S. 53-45 shall not be subject to the provisions of this section.

(e) The term 'home' shall mean real estate upon which there is located or there is to be located one or more single family dwellings or dwelling units."

Sec. 2. Any real estate obligation existing before the effective date of this act shall be construed with regard to interest rates pursuant to the laws existing prior to April 3, 1974, and this act shall only apply to loans or loan commitments made after the effective date of this act.

Sec. 3. If any provision of this Chapter or its application to any person or circumstance is held invalid, the remainder of this Chapter and its application to other persons or circumstances shall not be affected thereby.

Sec. 4. This act shall become effective upon ratification and shall expire on June 30, 1977.

In the General Assembly read three times and ratified, this the 12th day of May, 1975.

H. B. 370 CHAPTER 261

AN ACT TO REWRITE ARTICLE 7 OF CHAPTER 80 OF THE GENERAL STATUTES RELATING TO CATTLE BRANDS AND MARKS.

The General Assembly of North Carolina enacts:

Section 1. Article 7 of Chapter 80 is hereby repealed and a new Article to be designated as Article 7A is hereby enacted as follows:

"§ 80-57. *Purpose.*—The purpose of this Article is to discourage livestock theft by allowing for the voluntary individual registration of brand marks for certain livestock.

"§ 80-58. *Definitions.*

(1) 'Board'. The term 'Board' means the North Carolina Board of Agriculture.

(2) 'Commissioner'. The term 'Commissioner' means the Commissioner of Agriculture of the State of North Carolina.

(3) 'Brand'. The term 'brand' means an identification mark permanently affixed into the hide of livestock by a hot iron or an extremely cold brand known as a 'freeze brand'.

(4) 'Person'. The term 'person' means an individual, firm, company, association, partnership or corporation.

(5) 'Livestock'. The term 'livestock' means cattle, horses, ponies, mules, and asses.

"§ 80-59. *Responsibility and authority.*—The Commissioner shall record livestock brands and maintain a record of such brands pursuant to this Article. Such records shall be public and shall be prima facie evidence of ownership of livestock which is properly branded under this Article. The Commissioner shall authorize such agents within the North Carolina Department of Agriculture as he deems necessary to implement this Article.

Any person desiring the exclusive use of a brand shall make application to the Commissioner on forms prescribed by the Board. The transfer of ownership of a brand registration may be done only at the written request of the brand registrant of record. The Commissioner shall receive a fee of ten dollars ($10.00) for recording such transfer.

"§ 80-60. *No brands duplicated.*—No brand shall be registered that is a reasonable facsimile of another registered brand or that will likely be confused with another brand registered under this Article.

"§ 80-61. *Rule and regulation authority.*—The Board shall have authority to promulgate reasonable rules and regulations for implementation of this Article which shall include, but not be limited to, the location of and the size of brand marks.

"§ 80-62. *Fees for recording.*—The Commissioner is authorized to collect a fee of twenty-five dollars ($25.00) for the recording of each new brand, or for re-

recording of each brand, and shall issue one certified copy of each brand recording to the holder of said brand. Duplicate certificates of registration may be issued by the Commissioner upon payment of a fee of two dollars ($2.00). Revenues collected pursuant to this Article shall be deposited with the State Treasurer to the account of the North Carolina Department of Agriculture.

"§ 80-63. *Record of sales and slaughter.*—Persons or agents selling or bartering or exchanging branded livestock in the State of North Carolina shall provide the purchaser or new owner with a bill of sale showing a reasonable facsimile of the brand on any and all livestock having a brand as defined in this Article. Such bills of sale shall be prima facie evidence of transfer of ownership of branded livestock. Slaughter facilities in the State of North Carolina shall affix to their normal records of receipt of livestock a reasonable facsimile of the brand on any branded livestock received by them. Such records shall be maintained for at least 12 months.

"§ 80-64. *Defacing prohibited.*—No person may change, conceal, deface, disfigure or obliterate any brand previously branded, impressed, or marked on any livestock, or put his or any other brand upon or over any part of any brand previously branded or marked upon any livestock, and no person shall make or use any counterfeit of any brand of any other person.

"§ 80-65. *Re-recording.*—Every brand recorded under this Article, in order to remain effective must be re-recorded with the Commissioner during the tenth year from its next previous recordation. Each person having a brand registered in the State of North Carolina shall be notified in writing by the Commissioner that said brand must be re-recorded to prohibit its disenrollment from the record of such brand maintained by the Commissioner.

"§ 80-66. *Violation a misdemeanor.*—Any person who violates any provision of this Article or any rule or regulation of the Board promulgated hereunder shall be guilty of a misdemeanor and upon conviction thereof fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500.00) or imprisoned for not more than 60 days, or both fined and imprisoned, in the discretion of the court."

Sec. 2. This act shall become effective on January 1, 1976, except G.S. 80-61, which shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of May, 1975.

H. B. 398 **CHAPTER 262**

AN ACT TO AMEND CHAPTER 48 TO PROVIDE THAT AN ADOPTIONS ORDER ENTERED IN A FOREIGN COUNTRY MAY BE ACCEPTED IN LIEU OF THE CONSENT OF THE NATURAL PARENT(S) OR GUARDIAN OF THE PERSON OF THE CHILD TO A READOPTION OF THE SAME CHILD BY THE SAME PETITIONERS UNDER THE LAWS OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. Chapter 48 of the General Statutes is hereby amended by adding the following section immediately following G.S. 48-9.1, to be numbered G.S. 48-9.2, and to read as follows:

"§ 48-9.2. *Foreign order of adoption in lieu of consent.*—Where a child has been previously adopted in a foreign country by petitioners seeking to readopt

the child under the laws of North Carolina, the adoption order entered in the foreign country may be accepted in lieu of the consent of the natural parent or parents or the guardian of the person of the child to said readoption."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of May, 1975.

H. B. 444 CHAPTER 263

AN ACT TO AMEND G.S. 153A-335 TO MODIFY THE SUBDIVISION CONTROL ORDINANCE FOR RUTHERFORD AND POLK COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153A-335, as the same appears in 1974 Replacement Volume 3C of the General Statutes, is hereby amended by deleting the words "the division of land into parcels greater than ten acres" from that subdivision (2) in line 12 thereof.

Sec. 2. This act shall apply only to Rutherford and Polk Counties.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of May, 1975.

H. B. 489 CHAPTER 264

AN ACT TO PERMIT BOARDS OF EDUCATION TO LEASE CERTAIN SCHOOL PROPERTY FOR A TERM OF UP TO TEN YEARS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115-126(e) as the same now appears in Replacement Volume 3A of the North Carolina General Statutes is hereby amended by adding to the end thereof two new sentences which shall read as follows:

"Upon a two-thirds vote of the board that such is in the public interest and with the approval of the board's tax levying authority, the board may enter into an agreement for the lease of such property for a term in excess of one year but for not more than 10 years, provided however the proceeds of such lease authorized herein shall be used either to reduce the bonded indebtedness of such administrative unit or for capital outlay purposes. Nothing in this subsection shall invalidate any local act authorizing the lease of any such property."

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 12th day of May, 1975.

H. B. 511 CHAPTER 265

AN ACT TO AMEND G.S. 153A-159.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153A-159, entitled "Power of eminent domain conferred", is hereby amended by adding the following to the end of the first paragraph thereof:

"(6) Establishing drainage programs and programs to prevent obstructions to the natural flow of streams, creeks and natural water channels or improving drainage facilities."

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective on July 1, 1975, and shall not affect pending litigation.

In the General Assembly read three times and ratified, this the 12th day of May, 1975.

H. B. 543 CHAPTER 266

AN ACT TO AMEND THE WORKMEN'S COMPENSATION ACT SO AS TO PROVIDE PAYMENT FOR DAMAGE TO PROSTHETIC DEVICES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 97-2(6) is hereby amended by adding a sentence to the end of said subsection to read as follows:

"Injury shall include breakage or damage to eyeglasses, hearing aids, dentures, or other prosthetic devices which function as part of the body; provided, however, that eyeglasses and hearing aids will not be replaced, repaired, or otherwise compensated for unless injury to them is incidental to a compensable injury. The Commissioner of Insurance shall hold a rate hearing, within 60 days of the effective date of this bill, in order to make necessary rate adjustments."

Sec. 2. This act shall be in full force and effect from and after July 1, 1975, and shall apply only to accidents occurring on or after said date.

In the General Assembly read three times and ratified, this the 12th day of May, 1975.

H. B. 563 CHAPTER 267

AN ACT TO AMEND CHAPTER 755, SESSION LAWS OF 1965, TO INCREASE THE COMPENSATION OF THE MEMBERS OF THE CHATHAM COUNTY BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. Section 8 of Chapter 755, Session Laws of 1965, is rewritten to read:

"Sec. 8. The Chairman of the Board of Education of Chatham County shall receive a per diem of thirty-five dollars ($35.00) plus ten cents (10¢) per mile when engaged in the performance of the duties of his office, and the remaining members of the Board shall receive a per diem of thirty dollars ($30.00) plus ten cents (10¢) per mile, when engaged in the performance of the duties of their office."

Sec. 2. Chapter 436, Session Laws of 1971, is hereby repealed.

Sec. 3. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 12th day of May, 1975.

H. B. 576 CHAPTER 268

AN ACT TO EXEMPT CERTAIN THEOLOGICAL SEMINARIES FROM THE PROVISIONS OF G.S. 116-15.

The General Assembly of North Carolina enacts:

Section 1. G.S. 116-15, as the same appears in the 1974 Cumulative Supplement to Volume 3A of the General Statutes, is hereby amended by adding a subsection to read as follows:

"(e) The foregoing provisions of this section shall not apply to any theological seminary established in or chartered by this State prior to January 1, 1953."

Sec. 2. All laws and clauses of laws in conflict with provisions of this act are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of May, 1975.

H. B. 582 CHAPTER 269

AN ACT TO PREVENT THE USE OF ARTIFICIAL LIGHTS IN AREAS INHABITED BY GAME IN JOHNSTON AND HERTFORD, GATES, NORTHAMPTON AND WAYNE COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. Any person who, between the hour of eleven o'clock p.m. on any day and one-half hour before sunrise on the following day, deliberately flashes or displays an artificial light from or attached to a motor-driven conveyance or from any means of conveyance attached to said motor-driven conveyance so as to cast the beam thereof beyond the surface of a roadway or in any field, woodland or forest in an area frequented or inhabited by wild game animals shall be guilty of a misdemeanor. Every person occupying such vehicle or conveyance at the time of such violation shall be deemed prima facie guilty of such violation as a principal.

Sec. 2. Each person violating the provisions of this act, shall, on the first conviction thereof, be fined not less than twenty-five dollars ($25.00) nor more than fifty dollars ($50.00). Upon a second or subsequent conviction, such person shall be fined not less than one hundred dollars ($100.00) nor more than two hundred dollars ($200.00) or imprisoned not more than 60 days, or both, in the discretion of the court.

Sec. 3. The provisions of this act shall not apply to a person while on land owned by him in fee simple or in which has has a life estate or a person who leases land for agricultural purposes, but the fact of such ownership shall be a matter of defense in any prosecution for violation of this act.

Sec. 4. All lawful peace officers of the county and State, including wildlife protectors, shall have authority to arrest for violations of this act.

Sec. 5. This act shall apply only to the counties of Johnston and Hertford, Gates, Northampton and Wayne.

Sec. 6. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of May, 1975.

H. B. 640 CHAPTER 270

AN ACT TO ABOLISH THE OFFICE OF CORONER IN ANSON COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The office of coroner in Anson County is hereby abolished, and Chapter 152 of the General Statutes shall not hereafter be applicable to Anson County.

Sec. 2. This act shall become effective upon ratification, but shall not apply to the unexpired term of any duly elected or appointed coroner now serving in Anson County.

In the General Assembly read three times and ratified, this the 12th day of May, 1975.

H. B. 643 CHAPTER 271

AN ACT TO AMEND G.S. 130-10 RELATING TO THE RULES, REGULATIONS AND DIRECTIVES OF THE COMMISSION FOR HEALTH SERVICES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-10 is amended by deleting from line 1 the word "directives" and substituting in lieu thereof the word "standards".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of May, 1975.

H. B. 644 CHAPTER 272

AN ACT TO AMEND G.S. 130-13(c) TO CLARIFY TERMS OF OFFICE OF COUNTY COMMISSIONERS ON COUNTY BOARDS OF HEALTH.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-13(c), as it appears in the 1974 Supplement to Volume 3B of the General Statutes, is hereby amended by adding after the first sentence the following sentences:

"County commissioners' terms of office as members of county boards of health shall be concurrent with their terms of office as county commissioners. When the county commissioner member of the board of health ceases to be a county commissioner for any reason, his appointment as a member of the board of health shall also cease, and the board of county commissioners, during their next meeting, shall appoint another commissioner to the board of health."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of May, 1975.

H. B. 690 **CHAPTER 273**

AN ACT TO AUTHORIZE THE TOWN OF INDIAN BEACH TO MAKE AGREEMENTS WITH OTHER MUNICIPALITIES FOR POLICE PROTECTION.

The General Assembly of North Carolina enacts:

Section 1. The Town of Indian Beach, in Carteret County, is hereby authorized to make agreements with other municipalities whereby the law enforcement officers of another municipality will provide police protection within the corporate limits, and extraterritorial areas, as specified in G.S. 160A-286, of the Town of Indian Beach. Such agreements may provide that the law enforcement officers of another municipality will respond to calls for assistance and/or maintain regular periods of police patrol in the Town of Indian Beach. Such agreements may further provide that the Town of Indian Beach will reimburse the municipality providing police protection for the services of its law enforcement officers and cover any other expenses incurred in providing such services.

Sec. 2. Agreements made pursuant to the authority outlined above shall be spread upon the minutes of the governing bodies of each municipality involved and shall be duly signed.

Sec. 3. When law enforcement officers are sent to the Town of Indian Beach pursuant to the authority granted by this act, the jurisdiction, authority, rights, privileges and immunities, including coverage under the workmen's compensation laws, which such law enforcement officers have in the other municipality shall extend to and include the area in which like benefits and authority could be afforded to law enforcement officers of the Town of Indian Beach. When providing law enforcement services to the Town of Indian Beach, the law enforcement officers of another municipality shall have the same authority to make arrests and to execute criminal process as the law vests in law enforcement officers of the Town of Indian Beach, but these provisions shall not be construed to extend the effect of the laws and ordinances of another municipality in the Town of Indian Beach.

Sec. 4. All laws and portions of laws in conflict with this act are hereby repealed.

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of May, 1975.

H. B. 692 **CHAPTER 274**

AN ACT TO PROVIDE COMPENSATION FOR MEMBERS OF THE CARTERET COUNTY BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. The Chairman of the Carteret County Board of Education shall be compensated in the amount of one hundred twenty-five dollars ($125.00) per month. The remaining members of the board shall each receive as compensation one hundred dollars ($100.00) per month. In addition to the monthly compensation provided for herein, each member of the Carteret County Board of Education shall be entitled to thirty-five dollars ($35.00) per

diem plus fifteen cents ($.15) per mile while carrying out duties as a member of the board outside of Carteret County.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of May, 1975.

S. B. 352 CHAPTER 275

AN ACT TO MAKE TECHNICAL REVISIONS TO CHAPTER 105 OF THE GENERAL STATUTES PERTAINING TO TAXATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-7(a) is amended by rewriting the same to read as follows:

"(a) A tax in addition to the inheritance tax imposed by this schedule is hereby imposed upon the transfer of the net estate of every decedent, whether a resident or nonresident of the State, where the inheritance tax imposed by this schedule is less than the maximum state death tax credit allowed by the Federal Estate Tax Act as contained in the Internal Revenue Code of 1954, or subsequent acts and amendments, because of said tax herein imposed. In such case, the inheritance tax provided for by this schedule shall be increased by an estate tax on the net estate so that the aggregate amount of tax due this State shall be the maximum amount of credit allowed under said Federal Estate Tax Act. Said additional tax shall be paid out of the same funds as any other tax against the estate."

Sec. 2. G.S. 105-113.10 is amended by rewriting the last sentence thereof to read as follows:

"However, the Secretary may permit monthly reports from the manufacturer instead of requiring stamps to be affixed to packages of free cigarettes given as complimentary samples by the manufacturer, but only if the package has been imprinted with the words 'State tax paid'."

Sec. 3. G.S. 105-113.86(v) is amended by rewriting the same to read as follows:

"(v) For purposes of subsection (p), the term municipality includes any urban service district defined by the governing body of a consolidated city-county, and the amount due thereby shall be distributed to the government of the consolidated city-county."

Sec. 4. Article 4 of Subchapter I, Chapter 105 of the General Statutes, is amended by:

(a) rewriting the first paragraph of G.S. 105-130.3 to read as follows:

"Every corporation doing business in this State shall pay annually an income tax equivalent to six percent (6%) of its net income or the portion thereof allocated and apportioned to this State. The net income or net loss of such corporation shall be the same as 'taxable income' as defined in the Internal Revenue Code in effect on January 1, 1975, subject to the adjustments provided in G.S. 105-130.5."

(b) rewriting G.S. 105-141(b)(12) to read as follows:

"Compensation received for active service as a member of the armed forces of the United States below the grade of commissioned officer; and so much of the compensation of a commissioned officer in such armed forces as does not exceed five hundred dollars ($500.00), for any month during any part of which such

member served in a combat zone, or was hospitalized as a result of wounds, disease, or injury incurred while serving in a combat zone, except that this subdivision shall not apply with respect to compensation received while such member was hospitalized for any month beginning more than two years after the date of the termination of combatant activities in such zone. With respect to service in the combat zone designated for purposes of the Vietnam conflict, this subdivision shall not apply with respect to compensation received while such member was hospitalized for any month beginning after January 2, 1977. For the purposes of this subdivision, the term 'commissioned officer' does not include a warrant officer; the term 'combat zone' means an area which the President of the United States by executive order designates as an area in which armed forces of the United States are or have been engaged in combat; service is performed in a combat zone only if performed on or after the date designated by the President by executive order as the date of the commencing of combatant activities in such zone; and the term 'compensation' does not include pension and retirement pay."

Sec. 5. Article 7 of Subchapter I, Chapter 105 of the General Statutes, is amended by:

(a) rewriting the first paragraph of G.S. 105-203 in its entirety, to read as follows:

"All shares of stock (including shares and units of ownership of mutual funds, investment trusts and investment funds) owned by residents of this State or having a business, commercial or taxable situs in this State on December 31 of each year, with the exception herein provided, shall be subject to an annual tax which is hereby levied, of twenty-five cents (25¢) on every one hundred dollars ($100.00) of the total fair market value of such stock on December 31 of each year less such proportion of such value as is equal to the proportion of the dividends upon such stock deductible by such taxpayer in computing his income tax liability under the provisions of G.S. 105-130.7 and 105-147(7)."

(b) adding at the end of the third paragraph of G.S. 105-206, a new sentence to read as follows:

"Furthermore, the intangible personal property of the estate of any resident of North Carolina shall be deemed to have a taxable situs in this State, and a nonresident administrator or executor of such an estate shall be subject to the requirements of this Article or schedule in the same manner and to the same extent as a resident administrator or executor."

Sec. 6. G.S. 105-164.3(19) is amended by rewriting the same to read as follows:

"(19) '*Storage' and 'use*'; *exclusion.*—'Storage' and 'use' do not include the keeping, retaining or exercising of any right or power over tangible personal property by the purchaser thereof for the original purpose of subsequently transporting it outside the State for use by said purchaser thereafter solely outside the State and which purpose is consummated, or for the purpose of being processed, fabricated or manufactured into, attached to or incorporated into, other tangible personal property to be transported outside the State and thereafter used by the purchaser thereof solely outside the State."

Sec. 7. G.S. 105-259 is amended:

(a) By rewriting the first paragraph thereof to read as follows:

"With respect to any one of the following persons:

(1) the Secretary of Revenue and all other officers or employees, and former officers and employees, of the Department of Revenue; and

(2) local tax authorities (as defined in G.S. 105-289(e)) and former local tax authorities;

and except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for any of said persons to divulge or make known in any manner the amount of income, income tax or other taxes of any taxpayer, or information relating thereto or from which the amount of income, income tax or other taxes or any part thereof might be determined, deduced or estimated, whether the same be set forth or disclosed in or by means of any report or return required to be filed or furnished under this Subchapter, or in or by means of any audit, assessment, application, correspondence, schedule or other document relating to such taxpayer, notwithstanding the provisions of Chapter 132 of the General Statutes or of any other law or laws relating to public records. It shall likewise be unlawful to reveal whether or not any taxpayer has filed a return, and to abstract, compile or furnish to any person, firm or corporation not otherwise entitled to information relating to the amount of income, income tax or other taxes of a taxpayer, any list of names, addresses, social security numbers or other personal information concerning such taxpayer, whether or not such list discloses a taxpayer's income, income tax or other taxes, or any part thereof, except that when an election is made by a husband and wife under G.S. 105-152(e) to file their separate returns on a single form, or in order to determine an exemption allowable under G.S. 105-149(a) (2), any information given to one spouse concerning the income or income tax of the other spouse reported or reportable on such single return or on separate returns shall not be a violation of the provisions of this section."

(b) By rewriting the fourth paragraph thereof to read as follows:

"Any person, officer, agent, clerk, employee, local tax authority or former officer, employee or local tax authority violating the provisions of this section shall be guilty of a misdemeanor and fined not less than two hundred dollars ($200.00) nor more than one thousand dollars ($1,000) and/or imprisoned, in the discretion of the court; and if such offending person be a public officer or employee, he shall be dismissed from such office or employment, and shall not hold any public office or employment in this State for a period of five years thereafter."

Sec. 8. G.S. 105-269.2 is amended by rewriting the first paragraph thereof to read as follows:

"The Tax Review Board shall be composed of the following members: (1) the State Treasurer, ex officio, who shall be chairman of the board; (2) the chairman of the Utilities Commission, ex officio; (3) a member appointed by the Governor; and (4) the Secretary of Revenue, ex officio, who shall be a member only for the purposes stated in G.S. 105-122 and G.S. 105-130.4. The member whom the Governor shall appoint shall serve for a term of four years and until his successor is appointed and qualified. The first such appointment shall be made for a term beginning on July 1, 1975."

Sec. 9. G.S. 105-289(e) is amended by rewriting the same to read as follows:

"(e) In accordance with regulations that may be adopted by it, the Department of Revenue may make available to local tax authorities any information contained in any report to it or to any other State department, or

any other information that the Department may have in its possession that may assist local tax authorities in securing complete tax listings, appraising taxable property, and presenting information in administrative and judicial proceedings involving the listing, appraisal and taxation of property.

(1) Information furnished to local tax authorities under the provisions of this subdivision (e) shall be used only for the purposes hereinabove set forth. Such information shall not be divulged or made public except as required in administrative or judicial proceedings under this Subchapter. Any local tax authority making improper use or disclosure of information obtained under this provision shall be subject to the provisions of G.S. 105-259, including the penalties set forth therein.

(2) Except as provided in this subsection (e), and except to the Governor and his authorized agent, and except to a solicitor or the authorized agent of a solicitor of a district in which such information would affect the listing or appraisal of property for taxation, neither the Department nor the Commission shall divulge or make public the reports made to it or to other State departments. (The provisions of this subsection shall not interfere with the publication of appraisals, assessments, or statistics by the Department or decisions made by the Commission, nor shall the provisions of this subsection prevent presentation of such information in any administrative or judicial proceeding involving appraisals, assessments or decisions of the Commission.)

(3) For the purposes of this subsection, 'local tax authorities' shall include county tax supervisors, assistant tax supervisors, members of county boards of commissioners, tax commissions, boards of equalization and review, and the municipal equivalents of such persons."

Sec. 10. Sections 1, 2, 3, 6, 7, and 9 shall be effective upon ratification. Sections 4(a) and 5 shall be effective with respect to taxable years beginning on and after January 1, 1975. Section 4(b) shall be effective with respect to taxable years beginning on and after January 1, 1973. Section 8 shall be effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 13th day of May, 1975.

S. B. 456 CHAPTER 276

AN ACT TO AMEND CHAPTER 1100, SESSION LAWS OF 1973, SECOND SESSION 1974, THE SAME BEING THE 1974 RURAL HALL INCORPORATION ACT.

The General Assembly of North Carolina enacts:

Section 1. Section 2, lines 84, 85 and 86 of Chapter 1100, Session Laws of 1973, 1974 Session, the same being the 1974 Rural Hall Incorporation Act, is hereby amended by striking therefrom the following:

"thence N 2° 42' E along the western property line of Brady Furniture Co. and others 2817.0 Ft. to the center of the A & Y Railroad (Southern Railway Co.) track;"

and inserting in its place the following:

"thence N 2° 42' E 86.90 Ft. to an iron stake in the western right-of-way line of Highway No. 65; thence N 46° 02' E 490.72 Ft. to an iron stake; thence N 89° 21' 30" W 336.93 Ft. to an iron stake; thence N 2° 42' E 2385.08 Ft. to the center of the A & Y Railroad (Southern Railway Co.) track;".

Sec. 2. This act shall only apply to Forsyth County.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of May, 1975.

S. B. 560

CHAPTER 277

AN ACT TO EXTEND THE CORPORATE LIMITS OF THE TOWN OF WINTERVILLE.

The General Assembly of North Carolina enacts:

Section 1. The following described territory is hereby annexed to and made a part of the corporate limits of the Town of Winterville:

Beginning at Carl Worthington's southeast corner in John H. Brookshires northern line and runs thence S 24° 50' W, 675' plus to the southern right-of-way of State Road 1713; thence with the southern right-of-way of State Road 1713; N 64° 11' W, 150' plus to the eastern right-of-way of State Road 1714; thence with the eastern right-of-way of State Road 1714 S 07° 57' W, 1,000' plus to the centerline of a canal; thence with the centerline of said canal N 16° 38' W, 900' plus to the eastern right-of-way of the Seaboard Coastline Railroad; thence with the eastern right-of-way of the Seaboard Coastline Railroad N 28° 15' E, 1350' plus; thence S 72° 45' E, 538.9' to the eastern right-of-way of Church Street, thence with the eastern right-of-way of Church Street N 24° 50' E, 250' plus; thence S 75° 10' E, 200' plus to the beginning.

Sec. 2. From and after the effective date of this act, the territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in such municipality and shall be entitled to the same privileges and benefits as other parts of such municipality. The newly annexed territory shall be subject to municipal taxes levied for the fiscal year following the date of annexation. If the effective date of annexation falls between January 1 and June 30, the municipality shall, for purposes of levying taxes for the fiscal year beginning July 1 following the date of annexation, obtain from the county a record of property in the area being annexed which was listed for taxation as of said January 1. If the effective date of annexation falls between June 1 and June 30, and the effective date of the privilege license tax ordinance of the annexing municipality is June 1, then businesses in the area to be annexed shall be liable for taxes imposed in such ordinance from and after the effective date of annexation.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of May, 1975.

H. B. 104 CHAPTER 278

AN ACT TO AMEND G.S. 148-26 TO PROHIBIT THE EMPLOYMENT OF INMATES WITHIN THE STATE PRISON SYSTEM AT ANY OF THE SCHOOLS ADMINISTERED BY THE STATE DIVISION OF YOUTH DEVELOPMENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 148-26 is amended by adding a new subsection "(f)" which shall read as follows:

"(f) Adult inmates of the State prison system shall be prohibited from working at or being on the premises of any schools or institutions operated or administered by the State Division of Youth Development."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of May, 1975.

H. B. 359 CHAPTER 279

AN ACT TO CLARIFY THE GENERAL CONTRACTORS' LICENSING LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 87-1 as the same appears in the 1974 Cumulative Supplement to Volume 2C of the General Statutes is hereby amended by striking the words "sewer main" as they appear in line 4 thereof and inserting in lieu thereof the words "public utilities".

Sec. 2. G.S. 87-10 as the same appears in the 1974 Cumulative Supplement to Volume 2C of the General Statutes is hereby amended by deleting all of line 16 of the second paragraph and inserting in lieu thereof the following:

"(3) Public utilities contractors, which shall include those whose operations are the performance of construction work on the following subclassifications of facilities: (a) water and sewer mains and water service lines and house and building sewer lines as defined in the North Carolina State Building Code, and water storage tanks, lift stations, pumping stations, and appurtenances to water storage tanks, lift stations and pumping stations; (b) water and waste water treatment facilities and appurtenances thereto; (c) electrical power transmission facilities, and primary and secondary distribution facilities ahead of the point of delivery of electric service to the customer; (d) public communication distribution facilities; and (e) natural gas and other petroleum products distribution facilities; provided the General Contractors Licensing Board may issue license to a public utilities contractor limited to any of the above subclassifications for which the general contractor qualifies, and".

Sec. 3. G.S. 87-10 as the same appears in the 1974 Cumulative Supplement to Volume 2C of the General Statutes is hereby amended by adding a new paragraph after the second paragraph to read as follows:

"Public utilities contractors constructing water service lines and house and building sewer lines as provided in (3)(a) above shall terminate said lines at a valve, box, meter, or manhole or cleanout at which the facilities from the building may be connected."

Sec. 4. G.S. 87-12 as the same appears in the 1965 Replacement Volume 2C of the General Statutes is hereby amended to read as follows:

"§ 87-12. *Certificate evidence of license.*—The issuance of a certificate of license or limited license by this board shall be evidence that the person, firm, or corporation named therein is entitled to all the rights and privileges of a licensed or limited licensed general contractor while said license remains unrevoked or unexpired. A licensed general contractor holding a license which qualifies him for work as described in G.S. 87-10 shall be authorized to perform the said work without any additional occupational license, notwithstanding the provisions of any other occupational licensing statute. A license issued by any other occupational licensing board having jurisdiction over any work described in G.S. 87-10, shall qualify such licensee to perform the work for which the license qualifies him without obtaining the license from the General Contractors Licensing Board. Nothing contained herein shall operate to relieve any general contractor from the necessity of compliance with other provisions of the law requiring building permits and construction in accordance with appropriate provisions of the North Carolina State Building Code."

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of May, 1975.

H. B. 553 CHAPTER 280

AN ACT AMENDING G.S. 113-120.1 AND G.S. 113-120.2, RELATING TO TRESPASSING ON POSTED PROPERTY, SO AS TO INCREASE THE PENALTY FOR VIOLATION THEREOF AND TO DECREASE THE MINIMUM SIZE OF THE POSTED NOTICE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-120.1 is amended by striking from lines 6 through 12 thereof, the words "fifteen dollars ($15.00) nor more than fifty dollars ($50.00) or by confinement in jail for not more than 30 days, in the discretion of the court, provided, that if a violation of this section be committed at nighttime between the hours of sunset and sunrise, the person so offending shall be punished by a fine of not less than thirty dollars ($30.00) nor more than fifty dollars ($50.00) or by confinement in jail for not more than 30 days, in the discretion of the court.", and substituting in lieu thereof, "fifty dollars ($50.00) nor more than two hundred fifty dollars ($250.00), or by imprisonment for not more than six months, or by both fine and imprisonment."

Sec. 2. The first sentence of G.S. 113-120.2 is rewritten to read as follows:

"The notices, signs or posters described in G.S. 113-120.1 shall measure not less than 120 square inches and shall be conspicuously posted on private lands not more than 200 yards apart close to and along the boundaries."

Sec. 3. G.S. 113-120.2 is further amended by striking from line 9 thereof the following: "300 yards" and inserting in lieu thereof "200 yards".

Sec. 4. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 13th day of May, 1975.

H. B. 731 CHAPTER 281

AN ACT TO AMEND G.S. 130-9(c) RELATING TO THE POWERS AND DUTIES OF THE DEPARTMENT OF HUMAN RESOURCES AND COMMISSION FOR HEALTH SERVICES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-9(c) is amended as follows:

(1) By deleting from the third line the words "Commission for Health Services" and substituting in lieu thereof the words "Department of Human Resources".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of May, 1975.

H. B. 759 CHAPTER 282

AN ACT TO PROVIDE FOR THE ELECTION FOR MEMBERS OF THE GUILFORD COUNTY BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. The Board of Education of Guilford County shall consist of five members who shall be residents of the Guilford County Administrative Unit and who shall be elected at large by the qualified voters of the administrative unit for terms of four years each.

Sec. 2. The incumbent members of the Guilford County Board of Education shall continue to hold office until their respective terms shall expire.

Sec. 3. At the time of the general election to be held in November, 1976, three members of the Guilford County Board of Education shall be elected in a nonpartisan election conducted by the Guilford County Board of Elections, each for a four-year term, commencing the first Saturday in April, 1977. At the general election to be held in November, 1978, two members shall be so elected for four-year terms commencing the first Saturday in April, 1979. As terms expire thereafter, members of the Guilford County Board of Education shall be elected in nonpartisan elections at the time of the general elections in November and all terms shall commence on the succeeding first Saturday in April.

Sec. 4. Candidates for the office of member of the Guilford County Board of Education shall file a notice of candidacy without declaring political affiliation and pay a filing fee of five dollars ($5.00) with the Guilford County Board of Elections at the same time required by law for county officers to file in primaries.

The filing fee stipulated in this act shall not apply unless the provisions of G.S. 163-107 are reestablished consistent with the ruling of the District Court of the United States for the Western District of North Carolina in Brown v. North Carolina State Board of Elections, et al.

The candidates receiving the highest number of votes in the election shall be declared elected and there shall be no runoff. Those persons elected shall take the oath of office at any time before the commencement of their terms of office.

Sec. 5. Any vacancy occurring on the Guilford County Board of Education shall be filled for the unexpired term by the remaining members within 30 days of the vacancy. Any vacancy occurring after a member has been elected but before the beginning of the elected term shall be filled for the term

by the members of the board of education with whom the member causing the vacancy would have served within 30 days of the commencement thereof. Vacancies not filled in any of such events within the required 30 days shall thereafter be filled by the appointment of the State Board of Education.

Sec. 6. The rights, duties and responsibilities of the Guilford County Board of Education, including requirements of eligibility for membership thereon, shall otherwise be governed by the General Statutes of North Carolina and local modifications thereof applicable to the Guilford County Administrative Unit as are in effect at the time of the enactment hereof and as may be hereafter enacted.

Sec. 7. From and after the effective date of this enactment, the Guilford County Board of Education shall have no further power or authority to make appointments to or fill vacancies on the Greensboro City Board of Education.

Sec. 8. All laws and clauses of laws in conflict herewith are hereby repealed.

Sec. 9. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of May, 1975.

H. B. 774 CHAPTER 283

AN ACT TO AMEND G.S. 139-27 TO PROVIDE FOR THE CORRECT STATUTORY REFERENCES FOR ENFORCEMENT OF WATERSHED ASSESSMENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 139-27(e), as the same appears in the 1974 Replacement Volume 3C of the General Statutes, is hereby amended by deleting the statutory references "G.S. 105-414 and subsections (f) through (v) of G.S. 105-391" and replacing them with the following statutory references: "G.S. 105-374 and G.S. 105-375".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of May, 1975.

H. B. 780 CHAPTER 284

AN ACT TO AMEND CERTAIN PROVISIONS OF THE GENERAL STATUTES SO AS TO PROVIDE BENEFITS TO MEMBERS OF THE STATE CIVIL AIR PATROL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 167-2 as the same appears in the 1974 Cumulative Supplement to the 1972 Replacement Volume 3D of the General Statutes is hereby amended to read as follows:

"The members of the State Civil Air Patrol shall serve without compensation and shall not be entitled to the benefits of the Retirement System of Teachers and State Employees as set forth in Chapter 135 of the General Statutes. The provisions of Article 31 of Chapter 143 of the General Statutes, with respect to tort claims against State departments and agencies, shall not be applicable to the activities of the State Civil Air Patrol, and the State shall not in any manner be liable for injury or damage to any person, firm or corporation by reason of the

acts of any of the members or officers thereof. The State shall not in any manner be liable for any of the contracts, debts or obligations of the said organization. The members of the State Civil Air Patrol shall be deemed and considered employees for Workmen's Compensation purposes of the Department of Military and Veterans Affairs during a State requested and authorized mission. Such period of employment shall not extend to members operating under an authorized mission of the United States Air Force. The Secretary of the Department of Military and Veterans Affairs shall authorize all State requested missions."

Sec. 2. G.S. 97-2(2) as the same appears in the 1974 Cumulative Supplement to the 1972 Replacement Volume 2D of the General Statutes is hereby amended by adding a new paragraph following the last paragraph to read:

"The term 'employee' shall also include senior members of the State Civil Air Patrol and shall entitle them to compensation for injuries arising out of and in the course of their duties as provided in G.S. 167-2."

Sec. 3. G.S. 97-2(5) as the same appears in the 1974 Cumulative Supplement to the 1972 Replacement Volume 2D of the General Statutes is amended by rewriting the last paragraph to read:

"In case of disabling injury or death to a volunteer fireman or member of an organized rescue squad or duly appointed and sworn member of an auxiliary police department organized pursuant to G.S. 160A-282 or senior members of the State Civil Air Patrol functioning under Article 5 Chapter 143B under compensable circumstances, compensation payable shall be calculated upon the average weekly wage the volunteer fireman or member of an organized rescue squad or member of an auxiliary police department or senior member of the State Civil Air Patrol was earning in the employment wherein he principally earned his livelihood as of the date of injury."

Sec. 4. G.S. 97-29 as the same appears in the 1974 Cumulative Supplement to the 1972 Replacement Volume 2D is hereby amended at the third paragraph second line following the words "State guard" by inserting the words "and senior members of the Civil Air Patrol" before the word "shall".

Sec. 5. The title of Article 12a of Chapter 143 as the same appears in the 1974 Replacement Volume 3C to the General Statutes is hereby amended to read:

"Law Enforcement Officers', Firemen's, Rescue Squad Workers' and Civil Air Patrol members' Death Benefits Act."

Sec. 6. G.S. 143-166.1 is hereby amended to read as follows:

"In consideration of hazardous public service rendered to the people of this State, there is hereby provided a system of benefits for dependents of law enforcement officers, firemen, rescue squad workers and senior Civil Air Patrol members killed in the discharge of their official duties."

Sec. 7. G.S. 143-166.2 as the same appears in the 1974 Replacement Volume 3C to the General Statutes is hereby amended to read:

"(1) The term 'dependent child' shall mean any unmarried child of the deceased officer, fireman, rescue squad worker or senior member of the Civil Air Patrol whether natural, adopted, posthumously born or whether an illegitimate child as entitled to inherit under the Intestate Succession Act, who is under 18 years of age and dependent upon and receiving his chief support from said officer or fireman or rescue squad worker or senior member of the Civil Air Patrol at

the time of his death; provided, however, that if a dependent child is entitled to receive benefits at the time of the officer's or fireman's or rescue squad worker's or senior Civil Air Patrol member's death as hereinafter provided, he shall continue to be eligible to receive such benefits regardless of his age thereafter; and further provided that any child over 18 years of age who is physically or mentally incapable of earning a living and any child over 18 years of age who was enrolled as a full-time student at the time of the officer's, the fireman's, the rescue squad worker's or the senior Civil Air Patrol member's death shall so long as he remains a full-time student as defined in the Social Security Act be regarded as a dependent child and eligible to receive benefits under the provisions of this Article.

(2) The term 'dependent parent' shall mean the parent of the deceased officer, fireman, rescue squad worker or senior member of the Civil Air Patrol, whether natural or adoptive, who was dependent upon and receiving his total and entire support from the officer, fireman, rescue squad worker or senior member of the Civil Air Patrol at the time of the injury which resulted in his death.

(3) The term 'killed in the line of duty' shall apply to any law enforcement officer, fireman, rescue squad worker or senior member of the Civil Air Patrol who is killed or dies as a result of bodily injuries sustained or of extreme exercise or extreme activity experienced in the course and scope of his official duties while in the discharge of his official duty or duties.

(4) The term 'law enforcement officer', 'officer', or 'fireman' shall mean all law enforcement officers employed full-time by the State of North Carolina or any county or municipality thereof and all full-time custodial employees of the North Carolina Department of Correction. The term 'fireman' shall mean 'eligible fireman' or 'fireman' as defined in G.S. 118-23. The term 'rescue squad worker' shall mean a person who is dedicated to the purpose of alleviating human suffering and assisting anyone who is in difficulty or who is injured or becomes suddenly ill by providing the proper and efficient care of emergency medical services and who belongs to an organized rescue squad which is eligible for membership in the North Carolina Association of Rescue Squads, Inc., and so certified by the secretary of said association. Each member shall be required to attend a minimum of 36 hours of training and meetings in each calendar year. Each rescue squad must file a roster certified to by the secretary of those members meeting the above requirements with the State Auditor on or about January 1 of each year. The term 'Civil Air Patrol member' shall mean those senior members, 18 years of age and older who are in good standing, currently trained and so certified by the Secretary of the Department of Military and Veterans Affairs or his delegate.

(5) The term 'spouse' shall mean the wife or husband of the deceased officer, fireman, rescue squad worker or senior Civil Air Patrol member who survives him and who was residing with such officer, fireman, rescue squad worker, or senior Civil Air Patrol member at the time of and during the six months next preceding the date of injury to such officer, fireman, rescue squad worker or senior Civil Air Patrol member which resulted in his death and who also resided with such officer, fireman, rescue squad worker or senior Civil Air Patrol member from that date of injury up to and at the time of his death and who remains unmarried during the time benefits are forthcoming provided, however, the part of this section requiring the spouse to have been residing with the deceased officer, fireman, rescue squad worker or senior Civil Air Patrol

member for six months next preceding the date of the injury which resulted in his death shall not apply where marriage occurred during this six-month period or where the officer, fireman, rescue squad worker or senior Civil Air Patrol member was absent during this six-month period due to service in the armed forces of this country."

Sec. 8. G.S. 143-166.3 as the same appears in the 1974 Replacement Volume 3C to the General Statutes is hereby amended to read:

"(a) When any law enforcement officer, fireman, rescue squad worker or senior Civil Air Patrol member shall be killed in the line of duty, the Industrial Commission shall award a death benefit to be paid in the amounts set forth in subsection (b) to the following:

(1) The spouse of such officer, fireman, rescue squad worker or senior Civil Air Patrol member if there be a surviving spouse; or

(2) If there be no spouse qualifying under the provisions of this Article, then payments shall be made to any surviving dependent child of such officer, fireman, rescue squad worker or senior Civil Air Patrol member and if there be more than one surviving dependent child, then said payment shall be made to and equally divided among all surviving dependent children; or

(3) If there be no spouse and no dependent child or children qualifying under the provisions of this Article, then payments shall be made to the surviving dependent parent of such officer, fireman, rescue squad worker or senior Civil Air Patrol member and if there be more than one surviving dependent parent then said payments shall be made to and equally divided between the surviving dependent parents of said officer, fireman, rescue squad worker or senior Civil Air Patrol member.

(b) Payment shall be made to the person or persons qualifying therefor under subsection (a) in the following amounts:

(1) At the time of the death of an officer, fireman, rescue squad worker or senior Civil Air Patrol member, ten thousand dollars ($10,000) shall be paid to the person or persons entitled thereto.

(2) Thereafter, five thousand dollars ($5,000) shall be paid annually to the person or persons entitled thereto until the sum of the initial payment and each annual payment reaches twenty-five thousand dollars ($25,000).

(3) In the event there is no person qualifying under subsection (a) of this section, twenty-five thousand dollars ($25,000) shall be paid to the estate of the deceased officer, fireman, rescue squad worker or senior Civil Air Patrol member at the time of death.

(c) In the event that any person or persons eligible for payments under subsection (a) of this section shall become ineligible, and other eligible person or persons qualify for said death benefit payments under subsection (a), then they shall receive the remainder of any payments up to the limit of twenty-five thousand dollars ($25,000) in the manner set forth in subsection (b) of this section.

(d) In the event any person or persons eligible for payments under subsection (a) of this section shall become ineligible and no other person or persons qualify for payments under that subsection and where the sum of the initial payment of ten thousand dollars ($10,000) and each subsequent annual payment of five thousand dollars ($5,000) does not total twenty-five thousand dollars ($25,000), then the difference between the total of the payments made and twenty-five thousand dollars ($25,000) shall immediately be payable to the estate of the

deceased officer, fireman, rescue squad worker, or senior Civil Air Patrol member."

Sec. 9. G.S. 143-166.7 as the same appears in the 1974 Replacement Volume 3C to the General Statutes is hereby amended to read:

"The provisions of this Article shall apply and be in full force and effect with respect to any law enforcement officer, fireman, rescue squad worker or senior Civil Air Patrol member killed in the line of duty on or after ratification."

Sec. 10. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of May, 1975.

H. B. 783 CHAPTER 285

AN ACT TO AMEND G.S. 115-25 AUTHORIZING A PERSON WHO TEACHES IN THE PUBLIC SCHOOLS TO SERVE ON THE CONCORD CITY BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115-25 is amended by adding the following proviso at the end of the first paragraph:

"Provided, that one member of the Concord City Board of Education may be a teacher employed by a county or city board of education other than the Concord City Board of Education."

Sec. 2. This act shall become effective upon ratification and shall become effective retroactively to May 1, 1971, and shall expire on November 30, 1975.

In the General Assembly read three times and ratified, this the 13th day of May, 1975.

H. B. 702 CHAPTER 286

AN ACT TO ESTABLISH THE QUALIFICATIONS FOR MEMBERS OF THE STATE BOARD OF ELECTIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-19 is amended by adding at the end thereof the following paragraph:

"No person shall be eligible to serve as a member of the State Board of Elections who holds any elective or appointive office under the government of the United States, or of the State of North Carolina or any political subdivision thereof. No person who holds any office in a political party, or organization, or who is a candidate for nomination or election to any office, or who is a campaign manager or treasurer of any candidate in a primary or election shall be eligible to serve as a member of the State Board of Elections."

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 13th day of May, 1975.

S. B. 204

CHAPTER 287

AN ACT TO PREVENT FACILITATION OF THE UNLAWFUL TAKING OF DEER AND TURKEY WITH THE AID OF BOATS BY MEANS OF PLACING RESTRICTIONS UPON THE POSSESSION OF FIREARMS ABOARD MOTOR-PROPELLED VESSELS IN THE ROANOKE RIVER AT DESIGNATED LOCATIONS.

The General Assembly of North Carolina enacts:

Section 1. No person aboard a motor-propelled vessel on the Roanoke River between the point where Halifax County joins Martin County on the west side of the Roanoke River going straight across the river to the point where it intersects the river bank on the Bertie County side, then commencing downstream to the point where U. S. Routes 13 and 17 cross the river at Williamston shall have in possession a firearm during the open season for taking deer and turkey. No person in charge of any motor-propelled vessel or towed vessel on the Roanoke River within the above described area shall permit anyone to have in possession aboard such vessel any firearm during the open season for taking deer and turkey.

Sec. 2. As used in this act, a motor-propelled vessel includes any vessel propelled by machinery or equipped with propulsion machinery, except that the term shall not include any outboard motorboat, the motor for which has been completely removed from place and stored aboard the vessel.

Sec. 3. The Wildlife Resources Commission is hereby authorized to designate one or more points on that section of the Roanoke River described in Section 1, as may be necessary or desirable as means of access to established facilities, as crossing points and to mark said points with appropriate signs. When such crossing points have been so designated and so marked, the provisions of this act shall not apply at such points or within 30 yards upstream or downstream thereof.

Sec. 4. The provisions of this act shall not apply to any person exempt from provisions of G.S. 14-269 with respect to any activities lawfully engaged in while carrying out his duties.

Sec. 5. All law enforcement officers, including enforcement officers of the Wildlife Resources Commission, shall have jurisdiction to enforce the provisions of this act.

Sec. 6. Any person violating the provisions of this act shall be punished by fine not to exceed one hundred dollars ($100.00) or imprisonment not to exceed 30 days, or both.

Sec. 7. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of May, 1975.

S. B. 214

CHAPTER 288

AN ACT TO AMEND THE WORKMEN'S COMPENSATION ACT REGARDING THE NUMERICAL EXEMPTION CONCERNING COVERAGE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 97-2(1) is hereby amended by striking out "five" as the same appears in line 4 of such subsection and by substituting in lieu thereof "four".

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 14th day of May, 1975.

S. B. 427

CHAPTER 289

AN ACT TO AUTHORIZE AND DIRECT THE BOARD OF COMMISSIONERS OF BERTIE COUNTY TO CALL AN ELECTION TO DETERMINE WHETHER THE COUNTY SHALL BY ORDINANCE PROHIBIT HUNTING FROM THE PUBLIC ROADS, STREETS AND HIGHWAYS IN SAID COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The County Board of Elections of Bertie County shall hold a special election on or before August 1, 1975, for the purpose of submitting to the voters of the county the question of whether or not there should be adopted an ordinance making it unlawful for any person to hunt, take or kill any species of birds, animals or beasts, or attempt to hunt, take or kill any species of birds, animals or beasts by the use of firearms from the right-of-way of any public road, street or highway in Bertie County or to discharge any firearm from, on, across or over the roadway or right-of-way of any public road, street or highway in Bertie County.

The board of elections shall give notice of the election as required by law, and the special election shall be held and conducted in accordance with the general election laws of North Carolina.

Sec. 2. The ballot shall be in the following form:

☐ FOR prohibiting hunting and discharging any firearm from, on, across or over the right-of-way of any public road, street or highway in Bertie County.

☐ AGAINST prohibiting hunting and discharging any firearm from, on, across or over the right-of-way of any public road, street or highway in Bertie County.

If a majority of the votes cast are against prohibiting the hunting and discharging of firearms from the roadway or right-of-way of any public road, street or highway in Bertie County, then the Board of Commissioners of Bertie County shall not be authorized to enact any ordinance or regulation prohibiting such hunting and discharging of firearms.

If a majority of the votes cast are in favor of an ordinance to prohibit the hunting and discharging of firearms from the roadway or right-of-way of any public road, street or highway in Bertie County, then the Board of

Commissioners of Bertie County, notwithstanding the provisions of any other law including G.S. 153A-129, are hereby authorized to enact an ordinance to prohibit any person from hunting or discharging any firearm from, on, across, or over the roadway or right-of-way of any public road, street or highway in Bertie County.

Sec. 3. In the event the County Commissioners of Bertie County enact an ordinance to prohibit the hunting and discharge of firearms from any road, street or highway or right-of-way of any road, street or highway in Bertie County, pursuant to the provisions of this act, the county commissioners are also authorized to provide for fines and penalties for violation of said ordinance pursuant to the provisions of G.S. 153A-123 and all law enforcement officers are authorized to enforce said ordinance.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of May, 1975.

H. B. 148 CHAPTER 290

AN ACT TO AMEND CHAPTER 160A OF THE GENERAL STATUTES TO PARTIALLY EXCLUDE BRUNSWICK COUNTY FROM PARTS 2 AND 3 OF ARTICLE 4A, AND TO MAKE PART 1 APPLICABLE TO ANNEXATIONS IN BRUNSWICK COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-44 is amended by adding a new sentence at the end of the first paragraph thereof, to read as follows:

"No territory located in Brunswick County may be annexed under the provisions of this Part by any city with a population, according to the most recent federal census, of less than 2,000."

Sec. 2. G.S. 160A-56 is amended by adding a new sentence at the end of the first paragraph thereof, to read as follows:

"No territory located in Brunswick County may be annexed under the provisions of this Part."

Sec. 3. Territory in Brunswick County may be annexed pursuant to the provisions of G.S. Chapter 160A, Article 4A, Part 1.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of May, 1975.

H. B. 336 CHAPTER 291

AN ACT TO AUTHORIZE THE QUALIFIED VOTERS OF THE TOWN OF BOILING SPRING LAKES TO DETERMINE WHETHER OR NOT WINE AND BEER MAY LEGALLY BE SOLD ON-PREMISES AND WHETHER OR NOT ALCOHOLIC BEVERAGE CONTROL STORES MAY LEGALLY BE OPERATED IN SAID TOWN.

The General Assembly of North Carolina enacts:

Section 1. The Town of Boiling Spring Lakes is hereby authorized to hold an election to determine whether or not unfortified wine and malt beverages may be sold in the Town of Boiling Spring Lakes for on-premise consumption and whether or not alcoholic beverage control stores may be

operated in said Town. The Board of Commissioners of the Town of Boiling Spring Lakes shall call a special election on said questions upon receipt of a petition signed by at least 15% of the registered voters of the town according to the registration figures as certified by the Board of Elections. Said election may be called and held on a date to be fixed by the Board, but said election shall not be held within 45 days of the date of any general, special, or primary election to be held in the Town. Provided, however, that said election may be held, in the discretion of the Board, on the same day of a general, special, or primary election held within the Town. Said election shall be conducted by the said Board and the costs thereof shall be paid from the general fund of said Town.

Sec. 2. A new registration for voters for such election shall not be necessary and all qualified voters who are properly registered prior to registration for the election and those who register for said election shall be entitled to vote in said election. Except as otherwise herein provided, if a special election is called the special election authorized shall be conducted under the same statutes, rules and regulations applicable to general elections for the Town of Boiling Spring Lakes.

Sec. 3. The ballot shall give the voter the opportunity to vote "For" or "Against" the questions presented thereon.

On the issue of whether unfortified wine is to be sold, the ballot shall contain the following:

"☐ FOR 'on-premises' sales of unfortified wine by
Grade A hotels and restaurants only.
☐ AGAINST 'On-premises' sales of unfortified wine by
Grade A hotels and restaurants only."

On the issue of whether malt beverages are to be sold, the ballot shall contain the following:

"☐ FOR 'on-premises' sales of malt beverages.
☐ AGAINST 'on-premises' sales of malt beverages."

On the issue of whether to establish town alcoholic beverage control stores, the ballot shall contain the following:

"☐ FOR alcoholic beverage control stores.
☐ AGAINST alcoholic beverage control stores."

Sec. 4. If a subsequent election shall be held and at such election a majority of the votes shall be cast "Against alcoholic beverage control stores", the alcoholic beverage control Board shall within 3 months from the canvassing of such votes and the declaration of the results thereof, close said stores and shall thereafter cease to operate the same and within said 3 months the alcoholic beverage control Board shall dispose of all alcoholic beverages on hand, all fixtures and all other property in the hands and under the control of said Board and convert the same into cash and deposit the same in the general fund of the Town of Boiling Spring Lakes. Thereafter, any and all public-local and private laws applicable to the sale of alcoholic beverages within the Town in force and effect prior to the authorization to operate alcoholic beverage control stores shall be in full force and effect the same as if such election had not been held, and until or unless another election is held under the provisions of the act in which a majority of the votes shall be cast "For alcoholic beverage control stores". No election shall be called and held in the Town of Boiling Spring Lakes under the provisions of this act within three years from the holding of the last

election thereunder. If the first election held under this act is against alcoholic beverage control stores, then no further election shall be held under this act.

Sec. 5. If the operation of alcoholic beverage control stores is authorized under the provisions of this act, the Mayor and Board of Commissioners of the Town of Boiling Spring Lakes shall immediately create a Town Board of Alcoholic Control to be composed of a chairman and two other members who shall be well known for their character, ability, and business acumen. Said Board of Alcoholic Control shall be known and designated as the "Town of Boiling Spring Lakes Board of Alcoholic Control". The chairman of said Board shall be designated by the Mayor and the Board of Commissioners of the Town and shall serve for his first term a period of three years, and one member shall serve for his first term a period of two years, and the other member shall serve for a period of one year; and all terms shall begin with the date of their appointment, and after the said terms shall have expired, their successors in office shall serve for a period of three years. Their successors, or any vacancy occurring in the Board, shall be named or filled by the Mayor and the Board of Commissioners of the Town.

Sec. 6. The Town of Boiling Springs Lakes Board of Alcoholic Control shall have all of the powers and duties imposed by G.S. 18A-17 of the General Statutes of North Carolina on county boards of alcoholic control and shall be subject to the powers and authority of the State Board of Alcoholic Control the same as county boards of alcoholic control as provided in G.S. 18A-15 of the General Statutes. The said Town of Boiling Spring Lakes Board of Alcoholic Control and the operation of any town liquor stores authorized under the provisions of this act shall be subject to and pursuant with the provisions of Chapter 18A of the General Statutes, except to the extent which the same may be in conflict with the provisions of this act. Whenever the word "county" board of alcoholic control appears in said Chapter, it shall include the Town of Boiling Spring Lakes Board of Alcoholic Control. Provided, that the Town Board is hereby authorized to provide, in its discretion, for the sale of fortified and unfortified wines in all alcoholic beverage control stores in the Town of Boiling Spring Lakes. The net profits derived from the operation of the A.B.C. stores (after deducting necessary working capital and paying salaries and expenses) shall be paid quarterly to the General Fund of the Town of Boiling Spring Lakes; and the A.B.C. Board shall not make expenditures for law enforcement, education and rehabilitation as provided by G.S. 18A-17(14).

Sec. 7. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 8. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of May, 1975.

H. B. 341 CHAPTER 292

AN ACT TO AMEND G.S. 143-135 RELATING TO EXPENDITURE OF PUBLIC FUNDS WITHOUT PUBLIC LETTING OF CONTRACTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-135, as it appears in the 1974 Volume 3C of the General Statutes, is amended by striking out of the first line the word "This" and inserting in lieu thereof the words: "Except for the provisions of G.S. 143-129 requiring bids for the purchase of apparatus, supplies, materials, or equipment, this".

Sec. 2. G.S. 143-135 of Volume 3C of the 1974 General Statutes is hereby amended on lines 4 and 5 by deleting the words and figure "twenty-five thousand dollars ($25,000)" and inserting in lieu thereof the words and figure "fifty thousand dollars ($50,000)".

Sec. 3. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 14th day of May, 1975.

H. B. 418 CHAPTER 293

AN ACT TO AUTHORIZE AN ELECTION ON THE QUESTION OF INCORPORATING THE TOWN OF CASWELL BEACH IN BRUNSWICK COUNTY.

The General Assembly of North Carolina enacts:

Section 1. (a) The Board of Elections of Brunswick County shall conduct a special election on Tuesday, May 20, 1975, for the purpose of submitting to the qualified voters of the area hereinafter described as the proposed corporate limits of the Town of Caswell Beach the question whether or not such area shall be incorporated as the Town of Caswell Beach, as provided in this act. On such day, the polls shall be open from 6:30 a.m. until 6:30 p.m. except as otherwise provided in this section, such special election shall be conducted in accordance with the provisions of law applicable to county elections.

(b) The Brunswick County Board of Elections shall, not later than Wednesday, April 16, 1975, appoint a registrar and two judges of election, and designate a polling place for the special election.

(c) Not later than Friday, April 18, 1975, the Brunswick County Board of Elections shall cause to be posted at three public places in the area hereinafter described as the proposed corporate limits of the Town of Caswell Beach a notice stating the time, the polling place, and the purpose of the special election; the names of the registrar and judges of election; that, subject to a favorable vote upon the question of incorporation, the election of Town officers will be conducted on Tuesday, June 17, 1975; and that, subject to a favorable vote upon the question of incorporation, candidates for election to Town offices on June 17, 1975, must file with the Board notice of candidacy not earlier than Wednesday, May 21, 1975, and not later than 5:00 p.m. on Friday, May 30, 1975. The Board of Elections may, in its discretion, also cause such notice to be published one or more times in a newspaper having general circulation in the Caswell Beach Community or Brunswick County.

(d) In the special election, those voters who favor the incorporation of the Town of Caswell Beach as provided in this act shall vote a ballot upon which shall be printed the words: "FOR Incorporation of Town of Caswell Beach", and those voters who are opposed to the incorporation of the Town of Caswell Beach as provided in this act shall vote a ballot upon which shall be printed the words "AGAINST Incorporation of Town of Caswell Beach".

Sec. 2. If a majority of the votes cast in such special election shall be cast "AGAINST Incorporation of Town of Caswell Beach", then Sections 3 through 7 of this act shall have no force and effect.

Sec. 3. If a majority of the votes cast in such special election shall be cast "FOR Incorporation of Town of Caswell Beach", then Section 4 of this act shall be in full force and effect from and after May 20, 1975, and Sections 5 through 7 of this act shall be in full force and effect from and after June 17, 1975.

Sec. 4. (a) The Board of Elections of Brunswick County shall, on Tuesday, June 17, 1975, conduct an election for the purpose of electing a mayor and three commissioners for the Town of Caswell Beach. Such election shall be conducted within the area hereinafter described as the corporate limits of the Town of Caswell Beach. On election day, the polls shall be open from 6:30 a.m. until 6:30 p.m. Except as otherwise provided in this section, such election shall be conducted in accordance with the provisions of law applicable to county elections.

(b) The registrar and judges of election and the polling place for the election of Town officers shall be the same as those for the special election on the question of incorporation.

(c) Any qualified voter who would offer himself as a candidate for mayor or commissioner in such election shall file with the Chairman or Executive Secretary of the Board of Elections of Brunswick County a written statement giving notice of his candidacy. Such notice shall be filed not earlier than Wednesday, May 21, 1975, and not later than 5:00 p.m. on Friday, May 30, 1975, and shall be substantially in the following form:

"I,_____, do hereby give notice that I am a candidate for election to the office of _____,
Town of Caswell Beach, to be voted on at the election to be held on June 17, 1975, and I hereby request that my name be placed on the official ballot for such office. I certify that I am a resident and qualified voter of the Town of Caswell Beach,
residing at _____
_____ (Signature)
_____ (Date)
Witness:_____."

(d) Not later than Friday, May 23, 1975, the Brunswick County Board of Elections shall cause to be posted at three public places in the area hereinafter described as the proposed corporate limits of the Town of Caswell Beach a notice stating the time, the polling place, and the purpose of said election; the names of the registrar and judges of election; and that candidates for election to Town offices in said election must file with the Board notice of candidacy not later than 5:00 p.m. on Friday, May 30, 1975. The Board of Elections may, in its discretion, also cause such notice to be published one or more times in a newspaper having general circulation in the Caswell Beach community or Brunswick County.

(e) In such election, each qualified registered voter shall be entitled to vote for one candidate for mayor and for three candidates for commissioner. The candidate for mayor who receives the largest number of votes cast for mayor shall be declared elected for a term of four years or until his successor is elected and qualifies. The candidate for commissioner who receives the largest number of votes cast for commissioner shall be declared elected for a term of four years or until his successor is elected and qualifies, and the two candidates for commissioner who receive the next largest number of votes cast for commissioner shall be declared elected for terms of two years or until their successors are elected and qualify. In case of a tie between opposing candidates, the Board of Elections shall determine the result by lot.

(f) The Chairman of the Board of Elections shall notify the persons elected as mayor and commissioners, and shall designate some qualified officer to administer to them the oath of office, which shall be done as soon as practicable following their election.

Sec. 5. The following provisions of law shall constitute the Charter of the Town of Caswell Beach in Brunswick County:

"THE CHARTER OF THE TOWN OF CASWELL BEACH

"ARTICLE I. Incorporation and Corporate Powers.

"Section 1.1. *Incorporation and general powers.*—The inhabitants of the area described in Section 2.1 of this Charter shall be and constitute a body politic and corporate under the name of the 'Town of Caswell Beach', and shall be vested with all property which may be acquired by the Town, and all rights herein delegated to it; shall have perpetual succession; may have a common seal and alter and renew the same at pleasure; may sue and be sued; may contract; may acquire and hold all such property, real and personal, as may be devised, bequeathed, sold or in any manner conveyed or dedicated to it, or otherwise acquired by it, and may from time to time hold or invest, sell, or dispose of the same; and shall have and may exercise in conformity with this Charter all municipal powers, functions, rights, privileges, and immunities of every name and nature.

"Sec. 1.2. *Exercise of powers.*—All powers, functions, rights, privileges, and immunities of the Town, its officers, agencies, or employees, shall be carried into execution as provided by this Charter, or, if this Charter makes no provision, as provided by ordinance or resolution of the Board of Commissioners and as provided by the general laws of North Carolina pertaining to municipal corporations.

"Sec. 1.3. *Enumerated powers not exclusive.*—The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive but, in addition to the powers enumerated herein or implied hereby, or those appropriate to the exercise of such powers, the Town of Caswell Beach shall have and may exercise all powers which are granted to municipal corporations by the general laws of North Carolina and all powers which, under the Constitution of North Carolina, it would be competent for this Charter specifically to enumerate.

"ARTICLE II. Corporate Boundaries.

"Sec. 2.1. *Corporate boundaries.*—The corporate boundaries of the Town of Caswell Beach shall be as follows until changed in accordance with law:

Bounded on the South by the Atlantic Ocean, on the West by the Town of Yaupon Beach, on the north and northwest by the Intracoastal Waterway and

the Cape Fear River and on the east by the North Carolina Baptist Assembly which Baptist Assembly encompasses the lands condemned by the United States of America under Order of Declaration of Taking entered December 20, 1941, in that certain cause in the District Court of the United States for the Eastern District of North Carolina, Wilmington Division, Civil Docket Number 129, said eastern boundary being that part of the sea wall which bears north 14 degrees 38 minutes east and the extension of said line north 13 degrees 38 minutes east to the river and south 14 degrees 38 minutes west to the Atlantic Ocean. Excepting nevertheless from said lands the following tract: BEGINNING at a point in the westerly boundary line of tract to be described, said point bearing north 76 degrees 50 minutes west and distance 386 feet and 550 feet respectively from a bronze plate in the concrete roof of Bageley Primary and from a drill hole in the concrete roof of a concrete house of Caswell Primary, said primaries being part of the artillery fire control system of Fort Caswell, said point of beginning also bearing north 52 degrees 18 minutes 40 seconds west and distance 371 and 79/100 feet from the station a coast and geodetic survey known as R and marked by a bronze plate in a concrete monument; thence north 20 degrees 10 minutes east a distance of 2200 feet, more or less, to the Elizabeth River; thence in an easterly direction along said Elizabeth River a distance of 1300 feet, more or less, to a point; thence south 33 degrees 20 minutes west a distance of 3020 feet, more or less, to the shoreline of the Atlantic Ocean; thence in a westerly direction along said shoreline a distance of 600 feet, more or less, to a point; thence north 20 degrees 10 minutes east a distance of 570 feet, more or less, to the point of beginning, containing in all 57.2 acres, more or less. Bearings in this description are assumed to refer to the magnetic meridian (1924). Said land being known as the Oak Island Coast Guard Station.

"ARTICLE III. Mayor and Board of Commissioners.

"Sec. 3.1. *Mayor and mayor pro tempore.*—The mayor shall be elected by and from the qualified voters of the Town voting at large in the manner provided in Article IV. The mayor shall be the official head of the Town government and shall preside at all meetings of the Board of Commissioners. When there is an equal division upon any question, or in the appointment of officers, by the Board, the mayor shall determine the matter by his vote, and shall vote in no other case. The mayor shall exercise such powers and perform such duties as are or may be conferred upon him by the ordinances of the Town. The Board of Commissioners shall choose one of its number to act as mayor pro tempore, and he shall perform the duties of the mayor in the mayor's absence or disability. The mayor pro tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the Board.

"Sec. 3.2. *Composition of the Board of Commissioners.*—The Board of Commissioners shall consist of three members to be elected by and from the qualified voters of the Town voting at large in the manner provided by Article IV.

"Sec. 3.3. *Terms; qualifications; vacancies.*—(a) Except for the initial terms of office hereinbefore specified, the mayor and the members of the Board of Commissioners shall serve for terms of four years beginning the day and hour of the organizational meeting following their election, said meeting to be held as provided in G.S. 160A-68; provided, they shall serve until their successors are elected and qualify.

(b) No person shall be eligible to be a candidate or be elected as mayor or as a member of the Board of Commissioners, or to serve in such capacity, unless he is a resident and a qualified voter of the Town.

(c) If any elected mayor or commissioner shall refuse to qualify, or if there shall be any vacancy in the office of mayor or commissioner after election and qualification, the remaining members of the Board shall by majority vote appoint some qualified person to serve for the unexpired term. Any mayor or commissioner so appointed shall have the same authority and powers as if regularly elected.

"Sec. 3.4. *Compensation of mayor and commissioners.*—The mayor shall receive for his services such salary as the Board of Commissioners shall determine, but no reduction in his salary shall be made to take effect during the term in which it is voted. The Board of Commissioners may establish and from time to time change the salaries of its members.

"Sec. 3.5. *Organization of Board; oaths of office.*—The Board of Commissioners shall meet on the first Monday in December after each election and shall organize and take the oath of office as provided in G.S. 160A-68.

"Sec. 3.6. *Meetings of Board.*—The Board of Commissioners shall fix suitable times for its regular meetings, which shall be as often as once monthly. Special meetings may be held on the call of the mayor or a majority of the commissioners, and those not joining in the call shall be notified in writing. Any business may be transacted at a special meeting that might be transacted at a regular meeting.

"Sec. 3.7. *Quorum; votes.*—(a) A majority of the members elected to the Board of Commissioners shall constitute a quorum for the conduct of business, but a less number may adjourn from time to time and compel the attendance of absent members in such manner as may be prescribed by ordinance.

(b) The affirmative vote of a majority of the members of the Board of Commissioners shall be necessary to adopt any ordinance, or any resolution or motion having the effect of an ordinance. All other matters to be voted upon shall be decided by a majority vote of the members present and voting.

"Sec. 3.8. *Ordinances and resolutions.*—The adoption, amendment, repeal, pleading, or proving of ordinances shall be in accordance with the applicable provisions of the general laws of North Carolina not inconsistent with this Charter. The ayes and noes shall be taken upon all ordinances and resolutions and entered upon the minutes of the Board. The enacting clause of all ordinances shall be: 'Be it ordained by the Board of Commissioners of the Town of Caswell Beach'. All ordinances and resolutions shall take effect upon adoption unless otherwise provided therein, or unless some provision of the General Statutes provides otherwise.

"ARTICLE IV. Election Procedure.

"Sec. 4.1. *Regular municipal elections.*—Following the initial election hereinbefore provided for, regular municipal elections shall be nonpartisan and decided by simple plurality, and shall be held on the Tuesday after the first Monday in November of each odd-numbered year, beginning in 1977. In the regular 1977 election and quadrennially thereafter, there shall be elected by the qualified voters of the Town voting at large two commissioners to serve for terms of four years, or until their successors are elected and qualify. In the regular 1979 election and quadrennially thereafter, there shall be elected by the

qualified voters of the Town voting at large a mayor and one commissioner to serve for a term of four years, or until their successors are elected and qualify.

"Sec. 4.2. *Voting.*—In the regular 1977 election and quadrennially thereafter, each voter shall be entitled to vote for two candidates for commissioner, and the two candidates for commissioner who receive the largest numbers of votes cast for commissioner shall be declared elected. In the regular 1979 election and quadrennially thereafter, each voter shall be entitled to vote for one candidate for mayor and for one candidate for commissioner, and the candidate for mayor who receives the largest number of votes cast for mayor shall be declared elected and the candidate who receives the largest number of votes cast for commissioner shall be declared elected. In case of a tie between opposing candidates, the election officials shall determine the result by lot.

"Sec. 4.3. *Regulation of election.*—All municipal elections shall be conducted by the Brunswick County Board of Elections in accordance with Articles 23 and 24 of Chapter 163, of the General Statutes of North Carolina, except as otherwise herein provided.

"ARTICLE V. Town Attorney.

"Sec. 5.1. *Appointment; qualifications; term; compensation.*—The Board of Commissioners shall appoint a Town Attorney who shall be an attorney-at-law licensed to engage in the practice of law in North Carolina and who need not be a resident of the Town during his tenure. The Town Attorney shall serve at the pleasure of the Board of Commissioners and shall receive such compensation as the Board shall determine.

"Sec. 5.2. *Duties of Town Attorney.*—It shall be the duty of the Town Attorney to prosecute and defend suits for and against the Town; to advise the mayor, Board of Commissioners, and other Town officials with respect to the affairs of the Town; to draw all legal documents relating to the affairs of the Town; to draw proposed ordinances when requested to do so; to inspect and pass upon all agreements, contracts, franchises and other instruments with which the Town may be concerned; and to perform such other duties as may be required of him by virtue of his position as Town Attorney.

"ARTICLE VI. Administrative Officers and Employees.

"Sec. 6.1. *Town Clerk.*—The Board of Commissioners shall appoint a Town Clerk to keep a journal of the proceedings of the Board and to maintain in a safe place all records and documents pertaining to the affairs of the Town, and to perform such other duties as may be required by law or as the Board may direct.

"Sec. 6.2. *Town Tax Collector.*—The Board of Commissioners may appoint a Tax Collector to collect all taxes, licenses, fees and other monies belonging to the Town, subject to the provisions of this Charter and the ordinances of the Town, and he shall diligently comply with and enforce all the general laws of North Carolina relating to the collection, sale, and foreclosure of taxes by municipalities.

"Sec. 6.3. *Town Finance Officer.*—The Board of Commissioners may appoint a Town Finance Officer to perform the duties of the finance officer as required by the Local Government Budget and Fiscal Control Act.

"Sec. 6.4. *Consolidation of functions.*—The Board of Commissioners may, in its discretion, consolidate the functions of any two or more of the positions of Town Clerk, Town Tax Collector, and Town Finance Officer, or may assign the functions of any one or more of these positions to the holder or holders of any other of these positions. The Board may also, in its discretion, designate a single

employee to perform all or any part of the functions of any of the named positions, in lieu of appointing several persons to perform the same.

"Sec. 6.5. *Other employees.*—The Board of Commissioners may create and fill by appointment such other positions as it deems advisable to insure the efficient administration of the Town's affairs, and may, in its discretion, appoint a person to supervise all Town departments and may delegate to such person the power of appointment and removal of department heads and employees, other than the Town Attorney.

"ARTICLE VII. Finance.

"Sec. 7.1. *Custody of Town money.*—All monies received by the Town for or in connection with the business of the Town government shall be paid promptly into the Town depository. Such institution shall be designated by the Board of Commissioners in accordance with such regulations and subject to such requirements as to security for deposits and interest thereon as may be established by the General Statutes of North Carolina. All interest on monies belonging to the Town shall accrue to the benefit of the Town. All monies belonging to the Town shall be disbursed only in accordance with the provisions of the Local Government Budget and Fiscal Control Act.

"Sec. 7.2. *Purchases and contracts.*—Purchases of apparatus, supplies, materials, and equipment, and contracts for construction or repair work shall be made in accordance with the General Statutes of North Carolina relating thereto.

"Sec. 7.3. *Taxation.*—The territory within the corporate limits, and its citizens and property, shall be subject to municipal taxes levied by the Town for the fiscal year 1975-1976, and subsequent years. The Town may obtain from Brunswick County, and the County shall provide upon request, a record of property within the corporate limits which was listed for taxation as of January 1, 1975.

"ARTICLE VIII. Claims against the Town.

"Sec. 8.1. *Tort claims.*—All claims or demands against the Town arising in tort shall be presented to the Board of Commissioners in writing, signed by the claimant or his attorney or agent, within 90 days after such claim or demand is due or the cause of action accrues. No suit or action shall be brought on such a claim or demand within 30 days or after the expiration of 12 months from the time such claim or demand is presented. Unless the said claim or demand is so presented within 90 days, and unless suit is brought within 12 months thereafter, any action thereon shall be barred."

Sec. 6. If any provision of this act or the application thereof to any person or circumstances is held invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 7. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 8. This act shall be in full force and effect from and after its ratification, subject to the provisions of Sections 1 through 3 hereof.

In the General Assembly read three times and ratified, this the 14th day of May, 1975.

H. B. 485 **CHAPTER 294**

AN ACT TO INCREASE SERVICE FEE FOR NONRESIDENT MOTORIST TO RECOVER COST.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1-105 is hereby amended by rewriting subdivision (1) of the second paragraph to read as follows:

"Service of such process shall be made in the following manner:

(1) By leaving a copy thereof, with a fee of three dollars ($3.00), in the hands of the Commissioner of Motor Vehicles, or in his office. Such service, upon compliance with the other provisions of this section, shall be sufficient service upon the said nonresident."

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 14th day of May, 1975.

H. B. 487 **CHAPTER 295**

AN ACT TO ADJUST DEPARTMENT OF MOTOR VEHICLES' OPERATOR'S OR CHAUFFEUR'S LICENSE RESTORATION FEE TO RECOVER COST.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-7(i1) as the same appears in the 1974 Cumulative Supplement to Volume 1C of the General Statutes is hereby rewritten to read as follows:

"(i1) Any person whose operator's or chauffeur's license or other privilege to operate a motor vehicle in this State has been suspended, canceled or revoked pursuant to the provisions of this Chapter shall pay a restoration fee of fifteen dollars ($15.00) to the Department prior to the issuance to such person of a new operator's or chauffeur's license or the restoration of such operator's or chauffeur's license or privilege, such restoration fee shall be paid to the Department in addition to any and all fees which may be provided by law."

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 14th day of May, 1975.

H. B. 538 **CHAPTER 296**

AN ACT TO ESTABLISH A FEE FOR MOTOR VEHICLE OPERATOR'S LEARNER'S PERMIT TO RECOVER COST.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-7(l) as the same appears in the 1974 Cumulative Supplement to Volume 1C of the General Statutes is hereby rewritten to read as follows:

"(l) Any person who, except for lack of instruction in operating a motor vehicle would be qualified to obtain an operator's license under this Article, may apply for a temporary learner's permit, and the Department shall issue such permit, entitling the applicant, while having such permit in his immediate possession, to drive a motor vehicle upon the highways for a period of eighteen months. The fee for issuance of a temporary learner's permit shall be two dollars

($2.00). Any such learner's permit may be renewed, or a second learner's permit may be issued for an additional period of eighteen months. Such person must, while operating a motor vehicle over the highways, be accompanied by a licensed operator or chauffeur who is actually occupying a seat beside the driver. The fee for the issuance of a renewal or a second temporary learner's permit shall be three dollars and twenty-five cents ($3.25)."

Sec. 2. G.S. 20-7(m) is hereby rewritten to read as follows:

"(m) The Department upon receiving proper application may in its discretion issue a restricted instruction permit effective for a school year or a lesser period to an applicant who is enrolled in a driver training program approved by the State Superintendent of Public Instruction even though the applicant has not yet reached the legal age to be eligible for an operator's license. Such instruction permit shall entitle the permittee when he has such permit in his immediate possession to operate a motor vehicle subject to the restrictions imposed by the Department. The restrictions which the Department may impose on such permits include but are not limited to restrictions to designated areas and highways and restrictions prohibiting operation except when an approved instructor is occupying a seat beside the permittee.

The fee for the issuance of a restricted instruction permit shall be two dollar ($2.00)."

Sec. 3. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 14th day of May, 1975.

H. B. 641 CHAPTER 297

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF WADESBORO AND TO REPEAL PRIOR CHARTER ACTS.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Wadesboro is hereby revised and consolidated to read as follows:

"THE CHARTER OF THE TOWN OF WADESBORO.

"ARTICLE I. Incorporation and Corporate Powers.

"Sec. 1.1. *Incorporation and general powers.* The Town of Wadesboro shall continue to be a body politic and corporate under the name of the 'Town of Wadesboro', and shall continue to be vested with all property and rights which now belong to the town; shall have perpetual succession; may have a common seal and alter and renew the same at pleasure; may sue and be sued; may contract, may acquire and hold all such property, real and personal, as may be devised, bequeathed, sold or in any manner conveyed or dedicated to it, or otherwise acquired by it, and may from time to time hold, invest, sell, or dispose of the same; and shall have and may exercise in conformity with this charter all municipal powers, functions, rights, privileges, and immunities of every name and nature.

"Sec. 1.2. *Exercise of powers.* All powers, functions, rights, privileges, and immunities of the town, its officers, agencies, or employees, shall be carried into execution as provided by the charter of the town, or, if the charter makes no provision, as provided by ordinance or resolution of the town council and as provided by the general laws of North Carolina pertaining to municipal corporations.

"Sec. 1.3. *Enumerated powers not exclusive.* The enumeration of particular powers by this charter shall not be held or deemed to be exclusive but, in addition to the powers enumerated herein or implied hereby, or those appropriate to the exercise of such powers, the Town of Wadesboro shall have and may exercise all other powers which, under the Constitution and laws of North Carolina, now are, or hereafter may be, granted to municipal corporations.

"ARTICLE II. Corporate Boundaries.

"Sec. 2.1. The corporate limits of the Town of Wadesboro shall be those existing at the time of the ratification of this charter and as the same may be altered from time to time in accordance with law. A map and description showing the current boundaries of the town shall be maintained permanently in the office of the town clerk as the official map and description of the corporate limits of the town, and shall be available for public inspection. Immediately upon alteration of the corporate limits made pursuant to law, the council shall cause to be made the appropriate changes and/or additions to said official map and description. A redrawn map and rewritten description shall supercede for all purposes the earlier maps and descriptions which are respectively replaced.

"Sec. 2.2. *Extension of corporate boundaries.* All extensions of the corporate boundaries shall be governed by the General Statutes of North Carolina.

"ARTICLE III. Mayor and Council.

"Sec. 3.1. *Town council.* The town council shall consist of five members to be elected by the qualified voters of the town voting at large in the manner provided in Article IV of this charter. Together with the mayor, the council shall be charged with the general government of the town.

"Sec. 3.2. *Mayor.* The mayor shall be elected by and from the qualified voters of the town voting at large in the manner provided in Article IV of this charter. The mayor shall be the official head of the town government and shall preside at all meetings of the council. Where there is an equal division on a question, the mayor shall determine the matter by his vote, but he shall vote in no other case. The mayor shall exercise such powers and perform such duties as are or may be conferred upon him by the general laws of North Carolina, by the town charter, and by the ordinances of the town.

"Sec. 3.3. *Mayor pro tempore.* The council shall choose one of its number to act as mayor pro tempore, and he shall perform the duties of the mayor in the mayor's absence or disability. The mayor pro tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the council.

"Sec. 3.4. *Terms; qualifications; vacancies.* (a) The members of the town council shall serve for terms of four years, and the mayor shall serve for a term of two years, beginning the day and hour of the organizational meeting following their election, as established by ordinance in accordance with this charter; provided, they shall serve until their successors are elected and qualify.

(b) No person shall be eligible to be a candidate or to be elected as mayor or as a member of the town council or to serve in such capacity, unless he is a resident and a qualified voter of the town.

(c) In the event a vacancy occurs in the office of mayor or council member, the town council shall by majority vote appoint some qualified person to fill the same for the remainder of the unexpired term.

"Sec. 3.5. *Organization of town council; oaths of office.* The council members and mayor shall meet and organize for the transaction of business following each biennial election as provided by the uniform municipal election laws of North Carolina. Before entering upon their offices, the mayor and each council member shall take, subscribe to and have entered upon the minutes of the board the following oath of office:

'I, _____, do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office as _____, so help me, God.'

"Sec. 3.6. *Meetings of the council.* The town council shall fix a suitable time and place for its regular meetings, which shall be held at least as often as once monthly. Special meetings may be held according to the procedures and requirements designated by the general laws of North Carolina pertaining to special meetings of city councils.

"Sec. 3.7. *Ordinances and resolutions.* The adoption, amendment, repeal, pleading, or proving of ordinances shall be in accordance with the applicable provisions of the general laws of North Carolina not inconsistent with this charter. The ayes and noes shall be taken upon all ordinances and resolutions and entered upon the minutes of the council. The enacting clause of all ordinances shall be: 'Be it ordained by the town council of the Town of Wadesboro'. All ordinances and resolutions shall take effect upon adoption unless otherwise provided therein.

"ARTICLE IV. Elections.

"Sec. 4.1. *Regular municipal elections.* Regular municipal elections shall be held biennially in odd-numbered years on the day set by general law for municipal elections. In the 1975 regular municipal elections and biennially thereafter there shall be elected a mayor for a term of two years. In the 1975 regular municipal election and quadrennially thereafter, two council members shall be elected to serve terms of four years each. In the 1977 regular municipal election and quadrennially thereafter, three council members shall be elected to serve terms of four years each. Newly elected council members shall fill the seats of those council members whose terms are then expiring.

"Sec. 4.2. *Regulation of elections.* All town elections shall be conducted in accordance with the general laws of North Carolina relating to municipal elections.

"ARTICLE V. Town Attorney.

"Sec. 5.1. *Appointment; qualifications; term; compensation.* The council shall appoint a town attorney who shall be an attorney at law licensed to engage in the practice of law in North Carolina and who need not be a resident of the town during his tenure. The town attorney shall serve at the pleasure of the board and shall receive such compensation as the council shall determine.

"Sec. 5.2. *Duties of town attorney.* It shall be the duty of the town attorney to prosecute and defend suits against the town; to advise the mayor, town council and other town officials with respect to the affairs of the town; to draft all legal documents relating to the affairs of the town; to draft proposed ordinances when requested to do so; to inspect and pass upon all agreements, contracts, franchises and other instruments with which the town may be concerned; to attend all meetings of the town council when required by the council; and to perform such

other duties as may be required of him by virtue of his position as town attorney.

"ARTICLE VI. Town Manager.

"Sec. 6.1. *Appointment; compensation.* The council shall appoint an officer whose title shall be town manager and who shall be the head of the administrative branch of the town government. The town manager shall be chosen by the council on the basis of his executive and administrative qualifications with respect to the duties of his office as hereinafter prescribed. At the time of his appointment, he need not be a resident of the town or State, but shall reside therein during his tenure of office. The town manager shall serve at the pleasure of the council and shall receive such salary as the council shall fix. In case of absence or disability of the town manager, the council may designate a qualified administrative officer of the town to perform the duties of the manager during such absence or disability.

"Sec. 6.2. *Powers and duties of manager.* The town manager shall be responsible to the council for the proper administration of all the affairs of the town. In exercising his duties as chief administrator, he shall have the following powers and duties:

(a) He shall appoint and suspend or remove all town employees whose appointment or removal is not otherwise provided for by law in accordance with such general personnel rules, regulations, policies, or ordinances as the council may adopt.

(b) He shall direct and supervise the administration of all departments, offices, and agencies of the town, subject to the general direction and control of the council, except as otherwise provided by law.

(c) He shall attend all meetings of the council and recommend any measures that he deems expedient.

(d) He shall see that all laws of the State, the town charter and the ordinances, resolutions and regulations of the council are faithfully executed within the town.

(e) He shall prepare and submit the annual budget and capital program to the town.

(f) He shall annually submit to the council and make available to the public a complete report on the finances and administrative activities of the town as of the end of the fiscal year.

(g) He shall make any other reports that the council may require concerning the operations of the town departments, offices, and agencies subject to his direction and control.

(h) He shall perform any other duties that may be required and authorized by the council.

"ARTICLE VII. Other Administrative Officers and Employees.

"Sec. 7.1. *Town clerk.* The council shall appoint a town clerk to keep a journal of the proceedings of the council and to maintain in a safe place all records and documents pertaining to the affairs of the town, and to perform such other duties as may be required by law or as the council may direct.

"Sec. 7.2. *Town tax collector.* The council shall appoint a tax collector to collect all taxes, licenses, fees and other moneys belonging to the town, subject to the provisions of this charter and the ordinances of the town. The town tax collector shall diligently comply with and enforce all the general laws of North

Carolina relating to the collection, sale, and foreclosure of taxes by municipalities.

"Sec. 7.3. *Town treasurer.* The council shall appoint a town treasurer to perform the duties of the finance officer as required by the Local Government Budget and Fiscal Control Act.

"Sec. 7.4. *Consolidation of functions.* The council may consolidate any two or more of the positions of town clerk, town tax collector, and town treasurer, or may assign the functions of any one or more of these positions to the holder or holders of any other of these positions, subject to the Local Government Budget and Fiscal Control Act.

"Sec. 7.5. *Administrative officers and employees not cited.* Consistent with applicable State and local laws, the council may establish other positions, provide for the appointment of other administrative officers and employees, and generally organize the town government in order to promote the orderly and efficient administration of the affairs of the town.

"ARTICLE VIII. Alcoholic Beverage Control.

"Sec. 8.1. *Election; authorized, scope.* The town council of the Town of Wadesboro may at any time, upon petition filed by fifteen percent (15%) of the voters who voted in the last municipal election of the town, call an election for the purpose of submitting the question of whether or not town alcoholic beverage control stores may be operated in the town. At the election, if a majority of the votes cast shall be for the operation of such stores, it shall be legal for alcoholic beverage control stores to be set up and operated in the Town of Wadesboro.

"Sec. 8.2. *Time for conducting election; effect of county election.* No election shall be held under the provisions of Section 8.1 of this Article less than 60 days after the date that the election is called by the council. If, within 30 days following the publication of the call of the election, a county referendum for Anson County is called pursuant to G.S. 18A-51, the municipal election shall be thereby stayed until after such county election. If, at such county election, a majority of the votes cast shall be for county liquor control stores, the municipal election provided for herein for the Town of Wadesboro may not be held, but if, at such county election, a majority of the votes cast shall be against the establishment of county liquor control stores, the board of commissioners of the Town of Wadesboro may reset the date for the municipal election upon the question of the establishment of the Town of Wadesboro Alcoholic Beverage Control Stores. In resetting the date of the election, the council shall give at least 20 days' public notice of the same prior to opening of the registration books.

"Sec. 8.3. *Qualification of voters; form, marking of ballot; election procedure.* A new registration of voters for such election shall not be necessary and all qualified voters who are properly registered shall be entitled to vote in said election. Opportunity shall be given for additional registration as provided by law.

In such election, a ballot shall be used upon which shall be printed on separate lines for each proposition: 'For Town Alcoholic Beverage Control Stores', 'Against Town Alcoholic Beverage Control Stores'. Those favoring setting up and operating alcoholic beverage control stores in the Town of Wadesboro shall mark in the voting square to the left of the words, 'For Town Alcoholic Beverage Control Stores' printed on the ballot; and those opposed to the town

alcoholic beverage control stores shall mark in the voting square to the left of the words, 'Against Town Alcoholic Beverage Control Stores'.

Except as otherwise herein provided, if a special election is called, the election authorized shall be conducted under the same statutes, rules and regulations applicable to general elections of the town council of the Town of Wadesboro, and the cost thereof shall be paid from the general fund of the town.

"Sec. 8.4. *Town board of alcoholic control; formation upon approval of stores; membership, terms, compensation.* If the operation of town alcoholic beverage control stores is authorized under the provisions of this Article, the council shall immediately create a town board of alcoholic control to be composed of a chairman and two other members who shall be well known for their character, ability and business acumen. Said board shall be known and designated as 'The Town of Wadesboro Board of Alcoholic Control'.

One member appointed by the mayor and council shall be designated the chairman of said board and shall serve for his first term a period of three years. As to the other members, one member shall be appointed by the council and shall serve for his first term a period of two years, and the other member shall be appointed by the Board of County Commissioners of Anson County and shall serve for his first term a period of one year; and all terms shall begin with the date of their appointment. Thereafter, as the terms of the chairman and members expire, their successors in office shall serve for terms of three years each, and until their successors are appointed and qualified. The board of county commissioners shall continue to appoint one member of the board. Any vacancy shall be filled by the council for the unexpired term.

Compensation of the members of the town board of alcoholic control shall be fixed by the council.

"Sec. 8.5. *Powers, duties of board of alcoholic control; scope of statutory authority.* The Town of Wadesboro Board of Alcoholic Control shall have all the powers and duties imposed by Section 18A-17 of the General Statutes on county boards of alcoholic control and shall be subject to the powers and authority of the State Board of Alcoholic Control the same as county boards of alcoholic control as provided in Section 18A-15 of the General Statutes. The Town of Wadesboro Board of Alcoholic Control and the operation of any town alcoholic beverage control stores authorized under the provisions of this Article shall be subject to and in pursuance of the provisions of Article 2 of Chapter 18A of the General Statutes except to the extent which the same may be in conflict with the provisions of this Article. Wherever the word 'county' board of alcoholic control appears in the said Article, it shall include the Town of Wadesboro Board of Alcoholic Control.

The Town of Wadesboro Board of Alcoholic Control shall have authority to employ legal counsel or such other employees as it may deem wise and fix their compensation.

"Sec. 8.6. *Distribution of net revenues of board of alcoholic control.* The town board of alcoholic control shall expend for law enforcement not less than five percent (5%) nor more than 10 percent (10%) of the total profits, after payment of all costs and operating expenses, and after retaining sufficient and property working capital, and in addition shall expend in its discretion not more than five percent (5%) of the total profits for education as to the effect of the use of alcoholic beverage, and for the rehabilitation of alcoholics. Any persons appointed by the board as a law enforcement officer shall have those powers and

authority conferred in G.S. 18A-20 and in addition shall exercise such authority throughout the entire county.

The remainder of the net revenues shall be distributed by the board as follows: fifty percent (50%) to the general fund of the Town of Wadesboro and fifty percent (50%) to the general fund of Anson County.

"Sec. 8.7. *Effect of county election after establishment of liquor stores in town.* If, after the establishment of a liquor store or stores in the town, under the provisions of this Article, an election is called for the County of Anson pursuant to G.S. 18A-51 and a majority of the votes cast in such election shall be for the establishment of county liquor stores in Anson County, then within six months following the establishment of and opening of any county liquor control stores, the town board of alcoholic control shall close the Town of Wadesboro alcoholic beverage control stores and shall thereafter cease to operate the same. During such six months period, the town board of alcoholic control shall dispose of all alcoholic beverages on hand, all fixtures, and all other property in the hands and under the control of the town board of alcoholic control, and shall convert the same into money and, after making a true and faithful accounting, shall turn all money in its hands over to the general fund of the town.

If, at the county election called pursuant to G.S. 18A-51 a majority of the votes cast shall be against the establishment of county liquor control stores, the town alcoholic beverage control stores and the Town of Wadesboro Board of Alcoholic Control shall not be affected by the results of such election for the establishment of county liquor stores, and the provisions of this Article shall remain in full force and effect.

"Sec. 8.8. *County election on question of continuance of town stores.* In the event that town alcoholic beverage control stores are authorized under the provisions of this Article at any time after the expiration of four years following the establishment of town alcoholic beverage control stores in the Town of Wadesboro, if fifteen percent (15%) of the registered voters of Anson County petition for a referendum to be held upon the question of whether the operation of the said town beverage control stores shall be continued, the board of commissioners of the County of Anson shall call a county election for the purpose of submitting such question to the voters.

At said election, if a majority of the votes cast shall be for the continuation of such stores, the provisions of this Article shall remain in full force and effect. If, at such election, the majority of the voters shall be against continuation of operation of alcoholic beverage control stores in the Town of Wadesboro, then within six months following such election, the town board of alcoholic control shall close the Town of Wadesboro alcoholic beverage control stores and shall thereafter cease to operate same, disposing of all beverages, fixtures, and other property as provided for in Section 8.7 hereof.

"Sec. 8.9. *Frequency of elections.* No election as herein provided shall be held within four years of any other election which may have been held pursuant to the provisions of this Article. However, if a municipal election is held as provided in Section 8.1 of this Article, another such election may be held at any time after four years regardless of the outcome of the initial election.

"ARTICLE IX. Claims Against The Town.

"Sec. 9.1. *Presentation of claims; suit upon claims.* (a) All claims or demands against the Town of Wadesboro arising in tort or in contract shall be presented to the town council in writing, signed by the claimant or his attorney or agent,

within 90 days after the claim or demand is due or the cause of action accrues. No suit or action shall be brought thereon within 30 days, or after the expiration of 12 months, from the time said claim or demand is so presented. Unless the claim or demand is so presented within 90 days after the cause of action accrues, and unless suit is brought within 12 months thereafter, any action thereon is barred.

(b) No action shall be instituted against the town for damages to or compensation for real property taken or used by the town for any public purpose, or for the ejectment of the town therefrom, or to remove a cloud upon the title thereof, unless, within two years after such alleged use, the owner, his executor, administrator, guardian, or next friend, shall have given notice in writing to the council of the claim, including in the notice the date that the alleged use commenced, a description of the property alleged to have been used, and the amount of the damage or compensation claimed.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, if a complainant suffers from physical or mental incapacity that renders it impossible for him to give notice, his action shall not be barred if notice of claim is given by him or on his behalf within six months after the termination of his incapacity; provided, that minority shall not of itself constitute physical or mental incapacity. If the complainant is a minor, his action shall not be barred if notice of claim is given on his behalf within three years after the occurrence of the infliction of the injury complained of; or, if the minor suffers from physical or mental incapacity that renders it impossible for him to give notice, his action shall not be barred if notice of claim is given on his behalf within six months after termination of the incapacity, or within three years after the occurrence or the infliction of the injury complained of, whichever is the longer period. The town may at any time request the appointment of a next friend to represent any person having a potential claim against the town and known to be suffering from physical or mental incapacity."

Sec. 2. The purpose of this act is to revise the Charter of the Town of Wadesboro and to consolidate herein certain acts concerning the property, affairs, and government of the town. It is intended to continue without interruption those provisions of prior acts which are consolidated into this act, so that all rights and liabilities that have accrued are preserved and may be enforced.

Sec. 3. This act shall not be deemed to repeal, modify, or in any manner affect any of the following acts, portions of acts, or amendments thereto, whether or not such acts, portions of acts, or amendments are expressly set forth herein.

(a) Any acts concerning the property, affairs, or government of public schools in the Town of Wadesboro.

(b) Any acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind.

Sec. 4. The following acts or portions of acts, having served the purposes for which they were enacted, or having been consolidated into this act are hereby repealed:

Private Laws of 1783 Chapter 47
Private Laws of 1841 Chapter 54
Private Laws of 1787 Chapter 54
Private Laws of 1843 Chapter 73

Private Laws of 1866 Chapter 25
Private Laws of 1867 Chapter 126
Private Laws of 1873 Chapter 57
Private Laws of 1891 Chapter 26
Private Laws of 1893 Chapter 213
Public Laws of 1895 Chapter 63
Public Laws of 1897 Chapter 128
Private Laws of 1899 Chapter 128
Private Laws of 1901 Chapter 49
Private Laws of 1901 Chapter 192
Public Laws of 1903 Chapter 267
Private Laws of 1903 Chapter 272
Private Laws of 1905 Chapter 85
Private Laws of 1905 Chapter 189
Public Laws of 1905 Chapter 750
Private Laws of 1907 Chapter 469
Private Laws of 1907 Chapter 513
Private Laws of 1909 Chapter 265
Private Laws of 1911 Chapter 15
Private Laws Extra Session, 1913 Chapter 35
Private Laws of 1915 Chapter 393
Private Laws Extra Session, 1924 Chapter 35
Private Laws of 1925 Chapter 15
Private Laws of 1929 Chapter 217
Public-Local Laws of 1937 Chapter 501
Session Laws of 1947 Chapter 704
Session Laws of 1949 Chapter 1198
Session Laws of 1951 Chapter 605
Session Laws of 1959 Chapter 609
Session Laws of 1959 Chapter 690
Session Laws of 1963 Chapter 223
Session Laws of 1963 Chapter 750
Session Laws of 1965 Chapter 270
Session Laws of 1967 Chapter 735

Sec. 5. Chapter 617 of the Session Laws of 1969 is hereby amended by deleting from the ninth line of Section 3 thereof, the word "Wadesboro".

Sec. 6. No provision of this act is intended, nor shall be construed, to affect in any way any rights or interests (whether public or private):

(a) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act.

(b) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken (including the adoption of ordinances or resolutions) pursuant to or within the scope of any provisions of law repealed by this act.

Sec. 7. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(a) The repeal herein of any act repealing such law, or

(b) Any provision of this act that disclaims an intention to repeal or effect enumerated or designated laws.

Sec. 8. (a) All existing ordinances and resolutions of the Town of Wadesboro and all existing rules or regulations of departments or agencies of the Town of Wadesboro, not inconsistent with the provisions of this act, shall continue in full force and effect until repealed, modified or amended.

(b) No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act by or against the Town of Wadesboro or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

Sec. 9. If any of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 10. Whenever a reference is made in this act to a particular provision of the General Statutes, and such provision is later amended, repealed or superseded, the reference shall be deemed amended to refer to the amended General Statute, or to the General Statute which most clearly corresponds to the statutory provision which is repealed or superseded.

Sec. 11. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 12. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of May, 1975.

H. B. 676 CHAPTER 298

AN ACT TO AMEND THE CHARTER OF THE TOWN OF WARSAW SO AS TO EXTEND THE CORPORATE LIMITS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 19 of the Private Laws of 1887, the same being the Charter of the Town of Warsaw, is hereby amended by adding at the end of Section 1 thereof the following new paragraph, as follows:

"The following described territory is hereby annexed to, and made a part of, the corporate limits of the Town of Warsaw:

Being that certain tract or parcel of land, known as the Pinecrest Cemetary, located on the Southern edge of State Road #190, which runs in an East-West direction along the Southern corporate limits of the Town of Warsaw, and BEGINNING at a point where Stewarts Creek intersects with State Road #190 on the Western edge of the Jim Cottle property, and running along the Southern edge of State Road #190 approximately 652 feet to the Eastern edge of the Fannie Pickett property; thence a new line running South along the Eastern edge of the Fannie Pickett property, approximately 1,520 feet; thence a new line running Northeast along the Northwestern edge of P-M Builders property, approximately 640 feet to the Western edge of the Jim Cottle property; thence a new line running North to the point of beginning."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of May, 1975.

H. B. 742 **CHAPTER 299**

AN ACT TO INCREASE FROM TWO THOUSAND DOLLARS ($2,000) TO FIVE THOUSAND DOLLARS ($5,000) THE AMOUNT OF DEPOSIT REQUIRED FOR LEE COUNTY PROFESSIONAL BONDSMEN.

The General Assembly of North Carolina enacts:

Section 1. Chapter 420 of the 1951 Session Laws is hereby amended by deleting the words "TWO THOUSAND DOLLARS" from the title thereof, substituting therefor the words "FIVE THOUSAND DOLLARS" and by deleting the words and figures "two thousand dollars ($2,000)" from line 8 of Section 1 thereof, substituting therefor the words and figures "five thousand dollars ($5,000)".

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 14th day of May, 1975.

S. B. 179 **CHAPTER 300**

AN ACT TO MAKE VARIOUS TECHNICAL AMENDMENTS TO G.S. CHAPTER 28A "ADMINISTRATION OF DECEDENTS' ESTATES" (CHAPTER 1329, SESSION LAWS 1973) THAT BECOMES EFFECTIVE OCTOBER 1, 1975.

The General Assembly of North Carolina enacts:

Section 1. G.S. 28A-2-3 is amended by deleting the opening words "Whenever the Clerk of Superior Court" and inserting in lieu thereof "Whenever the Clerk of Superior Court is a subscribing witness to a will offered for probate in his county or".

Sec. 2. G.S. 28A-6-4 is amended by deleting the opening word "Any", and inserting in lieu thereof "Prior to the issuance of letters, any".

Sec. 3. G.S. 28A-8-1(b) is amended by renumbering subsections (2), (3), and (4) as subsections (3), (4), and (5), respectively, and inserting a new subsection (2), to read as follows: "(2) A nonresident executor (or a resident executor who moves from this State subsequent to his appointment) who has appointed a resident agent to accept service of process as provided in G.S. 28A-4-2(a), when the express terms of the will excuse him from giving bond." In addition, subsection (5) of G.S. 28A-8-1, as renumbered in this section, is amended to read as follows: "(5) A personal representative that is a national banking association having its principal place of business in this State or a State bank acting pursuant to G.S. 53-159."

Sec. 4. G.S. 28A-13-10(a) is amended by rewriting the last sentence thereof to read as follows: "Except for commissions allowable by law, he shall not be entitled to any profits caused by an increase in values, nor be chargeable with loss by a decrease in value or destruction without his fault, of any part of the estate."

Sec. 5. G.S. 28A-15-1(c) is amended by deleting the period at the end of the subsection, and inserting in lieu thereof: ", except that no such proceeding shall be required for a sale made pursuant to authority given by will."

Sec. 6. G.S. 28A-16-1(a) is rewritten to read as follows: "(a) A personal representative has the power to sell, at either a public or private sale, or to lease, personal property of the decedent without a court order."

Sec. 7. G.S. 28A-17-4 is amended by deleting "heirs or devisees" in lines 2, 5 and 7 and inserting in lieu thereof in each instance "heirs and devisees".

Sec. 8. G.S. 28A-20-1 is amended by deleting the last sentence thereof.

Sec. 9. G.S. 28A-25-1(b) is amended, in line 6, by inserting after the word "mailed" the words "by the clerk".

Sec. 10. G.S. 28A-25-5 is amended by adding at the end thereof the following: "A copy of the accounting shall also be filed with the clerk having jurisdiction over the personal representative or collector."

Sec. 11. G.S. 28A-26-2(c) is rewritten to read as follows: "(c) Payment or delivery under this section shall not be made if a resident creditor of the nonresident decedent has, by registered or certified mail, notified the resident debtor of the nonresident decedent or the resident having possession of the personal property belonging to the nonresident decedent that the debt should not be paid nor the property delivered to the domiciliary personal representative of the nonresident decedent. If no ancillary administrator qualifies within 90 days from the date of the notice, however, the resident debtor may pay the debt or deliver the property directly to the nonresident domiciliary personal representative as set forth in subsection (a) of this section."

Sec. 12. The amendments set forth in Sections 1 through 11 of this act are amendments to Chapter 28A as it is set forth in the 1974 Cumulative Supplement to Volume 2A of the General Statutes.

Sec. 13. G.S. 31-12 is amended by deleting the last sentence thereof.

Sec. 14. This act shall become effective October 1, 1975.

In the General Assembly read three times and ratified, this the 15th day of May, 1975.

S. B. 340 CHAPTER 301

AN ACT TO AMEND G.S. 20-279.14 TO PROVIDE THAT DRIVING PRIVILEGES WILL NOT BE SUSPENDED BECAUSE OF AN UNSATISFIED JUDGMENT AFTER THE JUDGMENT HAS EXISTED FOR 10 YEARS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-279.14, as the same appears in the 1974 Cumulative Supplement to Volume 1C of the General Statutes, is hereby rewritten to read as follows:

"§ 20-279.14. *Suspension to continue until judgments satisfied.*—Such license and nonresident's operating privilege shall remain so suspended and shall not be renewed, nor shall any such license be thereafter issued in the name of such person, including any such person not previously licensed, unless and until every such judgment:

(1) is stayed, or

(2) is satisfied in full, or

(3) is subject to the exemptions stated in G.S. 20-279.13 or G.S. 20-279.16, or

(4) is barred from enforcement by the Statute of Limitations pursuant to G.S. 1-47,

(5) is discharged in bankruptcy."

Sec. 2. This act shall become effective October 1, 1975.

In the General Assembly read three times and ratified, this the 15th day of May, 1975.

S. B. 384

CHAPTER 302

AN ACT TO REWRITE G.S. 20-309(e) TO PROVIDE FOR NOTICE OF TERMINATION RATHER THAN INTENT TO TERMINATE BY CARRIERS OF MOTOR VEHICLE LIABILITY INSURANCE COVERAGE AND PENALTY FOR NONCOMPLIANCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-309(e) is hereby rewritten to read as follows:

"(e) Upon termination by cancellation or otherwise of an insurance policy provided in subsection (d), the insurer shall forthwith notify the North Carolina Department of Motor Vehicles of such termination. Where the insurance policy is terminated by the insured, the insurer shall forthwith notify the Department of Motor Vehicles that such insurance policy has been terminated. The Department of Motor Vehicles upon receiving notice of cancellation or termination of an owner's financial responsibility as required by this Article, shall notify such owner of such cancellation or termination, and such owner shall, to retain the registration plate for the vehicle registered or required to be registered, within 15 days from date of notice given by the Department, certify to the Department that he has financial responsibility effective on or prior to the date of such cancellation or termination. Failure by the owner to certify that he has financial responsibility as herein required shall be prima facie evidence that no financial responsibility exists with regard to the vehicle concerned and, unless the owner's registration plate has been surrendered to the Department of Motor Vehicles by surrender to an agent or representative of the Department of Motor Vehicles and so designated by the Commissioner of Motor Vehicles or depositing the same in the United States mail, addressed to the Department of Motor Vehicles, Raleigh, North Carolina, the Department of Motor Vehicles shall revoke the owner's registration plate for 60 days. In no case shall any vehicle, the registration of which has been revoked for failure to have financial responsibility, be registered in the name of the registered owner, spouse, or any child of the spouse or any child of such owner, within less than 60 days after the date of receipt of the registration plate by the Department, except that a spouse living separate and apart from the registered owner may reregister such vehicle immediately in such spouse's name. As a condition precedent to the registration of the vehicle, the owner shall pay the appropriate fee for a new registration plate. Any person, firm or corporation failing to give notice of termination as required herein shall be subject to a civil penalty of two hundred dollars ($200.00) to be assessed by the Commissioner of Insurance upon a finding by the Commissioner of Insurance that good cause is not shown for such failure to give notice of termination to the Department of Motor Vehicles."

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 15th day of May, 1975.

S. B. 436 **CHAPTER 303**

AN ACT TO AMEND G.S. 55-45 TO AUTHORIZE THE TRANSFERABILITY OF STOCK OPTIONS IF SO PROVIDED IN THE TERMS OF THE OPTION.

The General Assembly of North Carolina enacts:

Section 1. Chapter 55 of the General Statutes is hereby amended by deleting from subsection (a) of G.S. 55-45 the following:

", which shall be nontransferable except by operation of law", and by inserting in lieu thereof the following:

", which may, if so provided by the plan, be nontransferable otherwise than by will or the laws of descent and distribution".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of May, 1975.

S. B. 557 **CHAPTER 304**

AN ACT TO AMEND G.S. 55-50(m) RELATED TO SHAREHOLDERS OF CORPORATIONS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 55 of the General Statutes is hereby amended by rewriting the second sentence of subsection (m) of Section 50 to read as follows:

"A shareholder receiving such notice shall thereafter be entitled to withdraw his dividend demand by giving written notice of such withdrawal to the corporation within 10 days after receipt of the redemption notice of the corporation or, if no such withdrawal is made, to receive the fair value of his shares, subject only to the surrender by him of the certificate or certificates representing his shares and to the provisions of G.S. 55-52, which value shall be determined and paid as follows:"

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of May, 1975.

S. B. 718 **CHAPTER 305**

AN ACT TO AMEND G.S. 45-37, RELATING TO THE DISCHARGE OF RECORD OF MORTGAGES, DEEDS OF TRUST, AND INSTRUMENTS, SO AS TO PROVIDE FOR CANCELLATION BY CERTAIN OFFICERS OF CREDIT UNIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 45-37(a)(2)e. Any chartered banking institution, national or state, or credit union, qualified to do business in and having an office in the State of North Carolina, when so endorsed in the name of the institution by an officer thereof.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of May, 1975.

H. B. 130 **CHAPTER 306**

AN ACT TO AMEND CHAPTERS 15A, 153A and 14 OF THE GENERAL STATUTES TO REQUIRE LAW ENFORCEMENT OFFICERS AND JAILERS TO EXAMINE SEMICONSCIOUS AND UNCONSCIOUS PRISONERS TO DETERMINE IF THAT CONDITION MIGHT BE CAUSED BY DIABETES OR ANOTHER DISABLING ILLNESS, AND TO PROVIDE MEDICAL ASSISTANCE IF THE PRESENCE OF SUCH AN ILLNESS IS INDICATED.

The General Assembly of North Carolina enacts:

Section 1. Chapter 15A of the General Statutes, as enacted by Chapter 1286 of the 1973 Session Laws, is amended by adding a new section G.S. 15A-503 as follows:

"§ 15A-503. *Police assisting persons who are arrested while unconscious or semiconscious.*—(a) Whenever a law enforcement officer arrests a person who is unconscious, semiconscious, or otherwise apparently suffering from some disabling condition, and who is unable to provide information on the causes of the condition, the officer should make a reasonable effort to determine if the person arrested is wearing a bracelet or necklace containing the Medic Alert Foundation's emergency alert symbol to indicate that the person suffers from diabetes, epilepsy, a cardiac condition, or any other form of illness which would cause a loss of consciousness. If such a symbol is found indicating that the person being arrested suffers from one of those conditions, the officer must make a reasonable effort to have appropriate medical care provided.

(b) Failure of a law enforcement officer to make a reasonable effort to discover an emergency alert symbol, as required by this section, does not by itself establish negligence of the officer, but may be considered along with other evidence to determine if the officer took reasonable precautions to ascertain the emergency medical needs of the person in his custody.

(c) A person who is provided medical care under the provisions of this section is liable for the reasonable costs of that care unless he is indigent.

(d) Willful false representation of the existence of diabetes, epilepsy, a cardiac condition, or other disabling condition covered by this section, is punishable as provided in G.S. 14-223.1."

Sec. 2. Chapter 153A of the General Statutes is amended by adding a new section G.S. 153A-225.1 as follows:

"§ 153A-225.1. *Custodial personnel assisting prisoners who are unconscious or semiconscious.*—(a) Whenever a custodial officer of a local confinement facility takes custody of a prisoner who is unconscious, semiconscious, or otherwise apparently suffering from some disabling condition and unable to provide information on the causes of the condition, the officer should make a reasonable effort to determine if the prisoner is wearing a bracelet or necklace containing the Medic Alert Foundation's emergency alert symbol to indicate that the prisoner suffers from diabetes, epilepsy, a cardiac condition or any other form of illness which would cause a loss of consciousness. If such a symbol is found indicating that the prisoner suffers from one of those conditions, the officer must make a reasonable effort to have appropriate medical care provided.

(b) Failure of a custodial officer of a local confinement facility to make a reasonable effort to discover an emergency alert symbol as required by this section does not by itself establish negligence of the officer but may be

considered along with other evidence to determine if the officer took reasonable precautions to ascertain the emergency medical needs of the prisoner in his custody.

(c) A prisoner who is provided medical care under the provisions of this section is liable for the reasonable costs of that care unless he is indigent.

(d) Willful false representation of the existence of diabetes, epilepsy, a cardiac condition, or other disabling condition covered by this section, is punishable as provided in G.S. 14-223.1."

Sec. 3. This act shall become effective October 1, 1975.

In the General Assembly read three times and ratified, this the 15th day of May, 1975.

H. B. 486 CHAPTER 307

AN ACT TO ADJUST DEPARTMENT OF MOTOR VEHICLES' ACCIDENT REPORT COPY FEE TO RECOVER COST.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-166.1(i) as the same appears in the 1974 Cumulative Supplement to Volume 1C of the General Statutes is hereby rewritten to read as follows:

"(i) All collision reports, including supplemental reports, above mentioned, except those made by State, city or county police, shall be without prejudice and shall be for the use of the Department and shall not be used in any manner as evidence, or for any other purpose in any trial, civil or criminal, arising out of such collision except that the Department shall furnish upon demand of any court a properly executed certificate stating that a particular collision report has or has not been filed with the Department solely to prove a compliance with this section.

The reports made by State, city or county police, and medical examiners but no other reports required under this section shall be subject to the inspection of members of the general public at all reasonable times, and the Department shall furnish a certified copy of any such report to any member of the general public who shall request the same, upon receipt of a fee of two dollars fifty cents ($2.50) certified copy, or The Department is authorized to furnish without charge to departments of the governments of the United States, states, counties, and cities certified copies of such collision reports for official use.

Nothing herein provided shall prohibit the Department from furnishing to interested parties only the name or names of insurers and insured and policy number shown upon any reports required under this section."

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 15th day of May, 1975.

H. B. 637

CHAPTER 308

AN ACT TO PROVIDE FOR A TWO HUNDRED FIFTY DOLLAR ($250.00) MINIMUM FINE FOR CONVICTION OF TRESPASS ON PRIVATE FISHING PONDS IN CLEVELAND AND GASTON COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-120.1, as the same appears in Volume 3A of the North Carolina General Statutes, is hereby amended by adding the following sentence at the end thereof:

"Provided, further, that in Cleveland and Gaston Counties anyone over 17 years of age violating the provisions of this section with respect to willfully entering on properly posted private ponds or lakes in order to fish shall be punished by a fine of not more than two hundred fifty dollars ($250.00)."

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 15th day of May, 1975.

S. B. 280

CHAPTER 309

AN ACT TO AMEND G.S. 15-200.1 TO PROVIDE ADVANCE WRITTEN NOTICE FOR GROUNDS OF REVOCATION OF PROBATION OR SUSPENSION AND TO REPEAL G.S. 15-200.2.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15-200.1, as it presently appears in the 1974 Cumulative Supplement of Volume 1C of the General Statutes of North Carolina, is hereby amended to read as follows:

"In all cases of probation or suspension of sentence in the superior and district court, before a probation or suspension of sentence may be revoked, the probation officer, district attorney or other officer shall inform the probationer in writing, not less than seven days prior to the time he intends to pray judgment placing such suspended sentence into effect or revocation of such probation, the grounds upon which revocation is prayed. The probationer shall be entitled to representation by counsel, including court-appointed counsel if he is indigent and confinement is possible. In all cases where probation or suspension of sentence entered in a court inferior to the superior court is revoked and sentence is placed into effect, the defendant shall have the right of appeal therefrom to the superior court, and, upon such appeal, the matter shall be determined by the judge without a jury, but only upon the issue of whether or not there has been a violation of the terms of probation or of the suspended sentence. Upon its finding that the conditions were violated, the superior court shall enforce the judgment of the lower court unless the judge finds as a fact that circumstances and conditions surrounding the terms of the probation and the violation thereof have substantially changed, so that enforcement of the judgment of the lower court would not accord justice to the defendant, in which case the judge may modify or revoke the terms of the probationary or suspended sentence in the court's discretion. Appeals from lower courts to the superior courts from judgments revoking probation or invoking suspended sentence may be heard in session or out of session, in the county or out of the county by the resident superior court judge of the district or the superior court judge assigned

to hold the courts of the district, or a judge of the superior court commissioned to hold court in the district, or a special superior court judge residing in the district."

Sec. 2. G.S. 15-200.2 as it presently appears in the Cumulative Supplement, Volume 1C of the General Statutes of North Carolina, is hereby repealed.

Sec. 3. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 4. This act shall be in full force and effect from and after July 1, 1975.

In the General Assembly read three times and ratified, this the 16th day of May, 1975.

S. B. 355 CHAPTER 310

AN ACT TO AMEND G.S. 110-118 TO PROVIDE FOR THE COURT TO DECIDE WHETHER THE CUSTODY OF ABUSED CHILDREN SHALL BE GIVEN TO THE DIRECTOR OF SOCIAL SERVICES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 110-118(d), as it appears in the 1974 Cumulative Supplement to Volume 3A of the General Statutes, is hereby amended by deleting the last sentence and inserting in lieu thereof the following:

"Pending such juvenile hearing, the hospital, clinic or other similar medical facility;

(1) may retain temporary physical custody of the child in which event said hospital, clinic, or medical facility

(2) shall request the director of social services in the county where the child resides to petition the district court in the district where the child resides to award temporary custody of the child to the director for placement with a relative or in a foster home under the supervision of the county department of social services or

(3) shall request the director of social services in the county where the hospital or other medical facility is located to petition the district court in the district where the hospital or other medical facility is located to award temporary physical custody of the child to the director for placement with a relative or in a foster home under the supervision of the county department of social services.

Upon receipt of such request in (2) or (3), the director of social services shall file such petition without delay."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of May, 1975.

S. B. 367 **CHAPTER 311**

AN ACT TO AMEND ARTICLE 13-B OF THE GENERAL STATUTES TO PROVIDE THEREIN FOR SOLID WASTE RECYCLING AND RESOURCE RECOVERY.

The General Assembly of North Carolina enacts:

Section 1. Article 13-B of Chapter 130 of the General Statutes is amended by changing the title thereof to "Solid Waste Management."

Sec. 2. G.S. 130-166.16 is amended by adding the following definitions and renumbering the definitions in alphabetical order:

" 'Natural resources' - all materials which have useful physical or chemical properties which exist, unused, in nature.

'Recycling' - the process by which recovered resources are transformed into new products in such a manner that the original products lose their identity.

'Resource recovery' - the process of obtaining material or energy resources from solid waste.

'Solid Waste Management' - the purposeful, systematic control of the generation, storage, collection, transport, separation, processing, recycling, recovery and disposal of solid waste."

Sec. 3. G.S. 130-166.17 is rewritten to read as follows:

"§ 130-166.17. *Solid waste unit in Department of Human Resources.*—For the purpose of promoting and preserving an environment that is conducive to public health and welfare, and preventing the creation of nuisances and the depletion of our natural resources, the Department of Human Resources shall maintain an appropriate administrative unit to promote sanitary processing, treatment, disposal, and overall management of solid waste and the greatest possible recycling and recovery of the resources of the State, and the Department shall employ and retain such qualified personnel as may be necessary."

Sec. 4. G.S. 130-166.18 is amended by deleting therefrom each time it appears the word "disposal" and substituting in lieu thereof the word "management."

Sec. 5. This act shall become effective September 1, 1975.

In the General Assembly read three times and ratified, this the 16th day of May, 1975.

S. B. 494 **CHAPTER 312**

AN ACT TO GRANT CITIES AND TOWNS THE RIGHT OF ENTRY TO MAKE SURVEYS - ANNEXATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-30 is hereby amended by rewriting to read as follows:

"§ 160A-30. *Surveys of proposed new areas.*—The governing bodies of the cities and towns after five days written notice to the owner of record or persons in possession of the premises are hereby authorized to enter upon any lands to make surveys or examinations as may be necessary in carrying out the mapping requirements of proposed annexations under any provision of Article 4A of Chapter 160A; provided, the city or town authorizing such entry shall make reimbursement for any damage resulting from such activity."

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 16th day of May, 1975.

S. B. 607 **CHAPTER 313**

AN ACT TO AMEND THE CHARTER OF THE CITY OF WILMINGTON.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the City of Wilmington is hereby revised as follows:

(a) Section 1.4 of Chapter 1046 of the 1963 Session Laws is hereby amended by striking out subsections 30, 31, 33, 34, 35 and 36.

(b) Section 1.6 of Chapter 1046 of the 1963 Session Laws is hereby deleted.

(c) Section 3.11(c) of Chapter 1046 of the 1963 Session Laws is hereby amended by adding the word "not" in line two between the words "matter" and "involving".

(d) Section 6.1 of Chapter 1046 of the 1963 Session Laws is hereby amended by striking out the words "one year" in line eight thereof and substituting therefor the words "30 days" and by striking out the word "twenty-one" in line nine thereof and substituting therefor the word "eighteen".

(e) Section 7.3 of Chapter 1046 of the 1963 Session Laws is hereby amended by striking out the words "and Treasurer" in line four thereof.

(f) Section 11.7 of Chapter 1046 of the 1963 Session Laws is hereby amended by placing a period after the word "fitness" in line 11 of the first paragraph thereof and striking out the remainder of that sentence.

(g) Section 16.1 of Chapter 1046 of the 1963 Session Laws is hereby deleted.

(h) Section 16.2 of Chapter 1046 of the 1963 Session Laws is hereby deleted.

(i) Section 21.2 of Chapter 1046 of the 1963 Session Laws is hereby amended by substituting the words "Article 10, Special Assessments, Section 160A-216 through 160A-236" for "Article 9, Local Improvements, Section 160-78 through 160-105" in lines six and seven thereof and changing the Chapter designation from "160" to "160A" and substituting "Article 10, Special Assessments", for "Article 9, Local Improvements", in lines 10, 14, 15 and 17 thereof.

(j) Section 21.3 of Chapter 1046 of the 1963 Session Laws is hereby amended by striking out the words "the railroad company lands and rights of way".

(k) Section 21.27 of Chapter 1046 of the 1963 Session Laws is hereby amended by substituting Article 10 for Article 9 and Chapter 160A of the General Statutes of North Carolina for Chapter 160 of the General Statutes of North Carolina in line seven thereof.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of May, 1975.

H. B. 862 **CHAPTER 314**

AN ACT TO AMEND CHAPTER 117 OF THE GENERAL STATUTES OF NORTH CAROLINA TO DELETE THE PROVISO CONCERNING COMPENSATION FOR DIRECTORS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 117-13 is hereby amended by changing the colon in the penultimate sentence to a period and deleting the following: "Provided, that such compensation shall not exceed thirty dollars ($30.00) for each day of their attendance at meetings for which their attendance has been duly authorized."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of May, 1975.

S. B. 281 **CHAPTER 315**

AN ACT TO AMEND CHAPTER 14 OF THE GENERAL STATUTES TO MAKE IT AN OFFENSE FOR AN INMATE TO TAKE HOSTAGES.

The General Assembly of North Carolina enacts:

Section 1. Article 33 of Chapter 14 of the General Statutes, as it presently appears in the Volume 1B of the 1969 Replacement Volume of the General Statutes of North Carolina, is hereby amended by adding a new subsection 14-258.3 to read as follows:

"§ 14-258.3. Any prisoner in the custody of the Department of Correction including persons in the custody of the Department of Correction pending trial, or appellate review, or for pre-sentence diagnostic evaluation; or any prisoner in the custody of any local confinement facility (as defined in G.S. 153A-217), or any person in the custody of any local confinement facility (as defined in G.S. 153A-217) pending trial or appellate review or for any lawful purpose; who by threats, coercion, intimidation or physical force takes, holds, or carries away any person, as hostage or otherwise, shall be guilty of a felony and shall be punished as provided in G.S. 14-2. The provisions of this section apply to: (1) violations committed by any prisoner in the custody of the Department of Correction whether inside or outside of the facilities of the North Carolina Department of Correction; (2) violations committed by any prisoner or by any other person lawfully under the custody of any local confinement facility (as defined in G.S. 153A-217) whether inside or outside the local confinement facilities (as defined in G.S. 153A-217)."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of May, 1975.

S. B. 282 **CHAPTER 316**

AN ACT TO AMEND CHAPTER 14 OF THE GENERAL STATUTES TO MAKE IT AN OFFENSE FOR AN INMATE TO POSSESS A WEAPON CAPABLE OF INFLICTING SERIOUS BODILY INJURY OR DEATH.

The General Assembly of North Carolina enacts:

Section 1. Article 33 of Chapter 14 of the General Statutes, as it presently appears in Volume 1B of the 1969 Replacement Volume of the General Statutes of North Carolina, is hereby amended by adding a new subsection 14-258.2 to read as follows:

"Any person while in the custody of the Division of Prisons, or any person under the custody of any local confinement facility, as defined in G.S. 153A-217, who shall have in his possession without permission or authorization a weapon capable of inflicting serious bodily injuries or death or who shall fabricate or create such a weapon from any source, shall be guilty of a misdemeanor; and any person who commits any assault with such weapon and thereby inflicts bodily injury or by the use of said weapon effects an escape or rescue from imprisonment shall be guilty of a felony punishable by a fine or imprisonment not to exceed 10 years."

Sec. 2. This act shall become effective October 1, 1975.

In the General Assembly read three times and ratified, this the 19th day of May, 1975.

S. B. 469 **CHAPTER 317**

AN ACT TO PROVIDE FOR AND ESTABLISH ELECTION AND APPOINTMENT PROCEDURES FOR MEMBERS OF THE CITY OF CLINTON SCHOOL ADMINISTRATIVE UNIT.

The General Assembly of North Carolina enacts:

Section 1. Board of education composition for the Clinton City School Administrative Unit. The Board of Education for the City of Clinton School Administrative Unit (hereinafter referred to as board) shall continue to be composed of the present five appointed members whose acts shall be afforded all legal force and effect until a new board, as created by this act, shall be duly qualified, as hereinafter defined.

It is the purpose of this act to create a board eventually composed of five members with the three such members having been elected at large on a nonpartisan basis by the end of the 1978 primary elections and with the remaining two such board members having been appointed, all as hereinafter set forth in this and subsequent sections.

All board members whether elected or appointed shall serve individual four-year terms after 1978 with each such member's term, whether arising prior to or subsequent to 1978, being determined and limited as hereinafter noted and explained.

Sec. 2. Election and appointment; qualifications. The present board is to consist of five appointed members, as noted in Section 1, and these members shall continue to serve as presently constituted until 1976 when two board positions shall be elected by public election, to replace two of the existing board members. Such election shall be conducted at the same time of and in conjunction with the election of Sampson County School Board members, as

provided in G.S. 115-19. Subsequent to such election and immediately upon the qualification of the two newly elected board members, the five board members constituting said board of education prior to the 1976 election shall be required to agree, or in lieu thereof to draw lots, whereby the following results are attained: Two such board members shall be retired from the board; one such board member shall be appointed to serve a four-year term identical to that of the two newly elected members; and the two remaining original board members (those occupying board seats prior to 1976) shall be appointed to serve two-year appointed terms. The board shall thereupon consist of two elected members serving four-year terms, one member serving a four-year appointive term and two members serving two-year appointive terms.

The board, thus constituted, shall continue to serve until 1978 when one board membership position shall be determined by public election and such elected member shall replace one of the board members earlier appointed for a two-year term. Such election shall be conducted at the same time of and in conjunction with the election of Sampson County School Board members, as hereinabove noted. Subsequent to such election and immediately upon the qualification of the newly elected board member the board shall appoint one member to replace the remaining member who had been appointed in 1976 for a two-year term and the one member, so appointed in 1978, shall be appointed for a four-year term. The board shall thereupon consist of one member elected for a four-year term and whose term will expire in 1982, two members elected in 1976 whose terms will expire in 1980, one member appointed in 1976 whose appointive term will end in 1980, and one newly appointed member whose term shall expire in 1982.

The system of board representation shall thereafter continue, using the elective and appointive process hereinabove described, to the end that one member is appointed and one member is elected in one biennium and two members are elected and one member appointed in the succeeding biennium.

Those persons who shall be elected members of the board and those persons who shall be appointed members of the board must qualify by taking the oath of office on or before the second Monday in June next succeeding their election or appointment, as the case may be, or as soon thereafter as possible, but in any event no later than the first Monday of July next succeeding their election or appointment. A failure to qualify within that time shall constitute a vacancy which shall be filled as set out in G.S. 115-24.

Notwithstanding any provision contained within this section that might be construed to the contrary, nothing herein shall prevent a duly qualified board from appointing one of its members whose term terminates, as heretofore explained, to succeed himself for a new appointive term.

All board members whether elected or appointed shall continue to serve with all legal authority until their successors shall be duly qualified, as hereinabove required.

Sec. 3. Eligibility for voting and board membership. Any individual qualified to vote in a Sampson County general election, as by law provided, and who is a registered resident of that legally defined geographical area now or hereafter encompassed by the Clinton City School Administrative Unit shall be eligible to vote in all elections required by this act. Provided, however, that such residents shall be required to comply with all reasonable rules or regulations formulated by the Sampson County Board of Elections regarding special

registration for proof of residency as a prerequisite to the right to vote guaranteed herein.

Eligibility for board membership shall be limited only as set forth in G.S. 115-25.

Sec. 4. County board of elections to control election procedures. The Sampson County Board of Elections, under the direction of the State Board of Elections, shall make all necessary provisions for elections as herein required, and shall exercise all powers, duties and responsibilities in conducting such elections as set forth in Chapter 163 of the North Carolina General Statutes. Said county board of elections shall supervise and control the definite establishment of the geographical area encompassed by the City of Clinton School Administrative Unit, as now or hereafter legally defined, and shall supervise and control a special election district for such school's administrative unit. The Sampson County Board of Elections shall further supervise, control and actively assist in setting up and maintaining a special voter registration system for said city administrative unit. Except as otherwise provided herein, the election of board of education members shall be conducted according to the provisions of Chapter 163 of the North Carolina General Statutes governing primary elections.

Sec. 5. Board member death or resignation. All vacancies in the membership of the board by death, resignation, or other causes shall be filled by appointment by the remaining members of the board, of a person to serve the remainder of the term left unfilled as the result of such vacancy.

Sec. 6. Organization of board. At the first meeting of the new board held subsequent to new board membership qualification such board shall organize by electing one of their members as chairman for a period of one year, or until his or her successor is elected and qualified. The chairman shall preside at all board meetings, and in the event of his absence or sickness, the board may appoint one of their members temporary chairman. The superintendent of the city administrative unit shall be ex officio secretary to the board and he or she shall keep the minutes of all board meetings but shall have no vote. Provided that in the event of a vacancy in said superintendency, the board may elect one of its members or some other school official to serve temporarily as secretary to the board.

Sec. 7. Nonconflicting retention of general and special laws or acts. This act is to be in addition to and not in substitution of Chapter 115 of the North Carolina General Statutes and any other general or special acts relating directly or indirectly to the City of Clinton School Administrative Unit and all such general or special acts are to remain in full force and effect except to the extent that they are in direct conflict with the provisions of this act.

Sec. 8. Object of board structure. The appointive aspect of this act was designed and perpetuated for the purpose of insuring that existing and future board members shall be required to make every reasonable effort to appoint new board members, as allowed by this act, which new appointed board member, when compared to board members then serving, fairly represents the racial, ethnic and sexual composition of the geographical area encompassed by the Clinton City School Administrative Unit.

Sec. 9. Effective dates of act. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 19th day of May, 1975.

H. B. 65 CHAPTER 318

AN ACT TO REENACT ARTICLE 12 OF CHAPTER 44 TO APPLY TO COTTON AND GRAINS AND LIMIT THE TIME FOR ENFORCEMENT OF LIENS AFTER SALE THEREOF.

The General Assembly of North Carolina enacts:

Section 1. Article 12 of Chapter 44 as the same presently appears in the 1966 Replacement Volume 2A of the General Statutes is repealed in its entirety, and there is hereby enacted a new Article 12 to read as follows:

"ARTICLE 12.

"Liens on Leaf Tobacco, Peanuts, Cotton and Grains.

"§ 44-69. *Effective period for lien on leaf tobacco sold in auction warehouse.*—No chattel mortgage, agricultural lien, or other lien of any nature upon leaf tobacco shall be effective for any purpose for a longer period than six months after the sale of such tobacco at a regular sale in an auction tobacco warehouse during the regular season for auction sales of tobacco in such warehouse. This section shall not absolve any person from prosecution and punishment for crime.

"§ 44-69.1. *Effective period for liens on peanuts, cotton and grains.*—No chattel mortgage, agricultural lien or other lien of any nature upon peanuts, cotton, soybeans, corn, wheat or other grains shall be effective for any purpose for a longer period than 18 months from the date of sale or the date of delivery to the purchaser, whichever date shall fall last. This section shall not absolve any person from prosecution and punishment for crime."

Sec. 2. This act shall not apply to pending litigation.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of May, 1975.

H. B. 70 CHAPTER 319

AN ACT TO AMEND CHAPTER 36, ARTICLE 1, OF THE GENERAL STATUTES OF NORTH CAROLINA WHICH RESTRICTS THE INVESTMENTS WHICH GUARDIANS, EXECUTORS, ADMINISTRATORS, OR OTHERS ACTING IN A FIDUCIARY CAPACITY MAY MAKE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 36-1, as the same appears in the 1974 Cumulative Supplement to Volume 2A of the General Statutes is hereby amended by inserting after the word "bank" in line 20 the words ", Building and Loan Association or Savings and Loan Association", and by inserting after the word "bank" in line 19 the words ", Building and Loan Association or Savings and Loan Association".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of May, 1975.

H. B. 342

CHAPTER 320

AN ACT TO MAKE CURRENT G.S. 47-95, VALIDATING CERTAIN NOTARIAL ACTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 47-95, as the same appears in Volume 2A of the 1974 Cumulative Supplement to the General Statutes, is hereby amended by striking the date "January 1, 1969" in line three thereof, and substituting therefor the date "January 1, 1975," it being the purpose and intent of this act to validate those certain acknowledgments with which G.S. 47-95 deals and which were made before January 1, 1975.

Sec. 2. This act does not apply to pending litigation.

Sec. 3. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 4. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 19th day of May, 1975.

H. B. 400

CHAPTER 321

AN ACT TO AMEND THE ADOPTIONS LAW TO PROVIDE THAT A PARENT SHALL NOT BE A NECESSARY PARTY TO ADOPTION PROCEEDING INITIATED SUBSEQUENT TO TERMINATION OF HIS PARENTAL RIGHTS BY A DISTRICT COURT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 48-5 is hereby amended to read as follows:

"§ 48-5. *When parent is unnecessary party to adoption proceedings.*—(a) In all cases where a district court has entered an order pursuant to G.S. 7A-288 terminating the parental rights with respect to a child adjudicated to be neglected or dependent, the parent whose parental rights with respect to such child may have been terminated shall not be a necessary party to any proceeding under this Chapter nor shall the consent of such parent or parents be required.

(b) In the event that a district court has not heretofore entered an order terminating parental rights as provided for in G.S. 7A-288, then on written notice of not less than 10 days to the parent, parents, or guardian of the person, the court in the adoption proceeding is hereby authorized to determine whether an abandonment as defined in G.S. 48-2(3a) and (3b) has taken place.

(c) If the parent, parents, or guardian of the person deny that an abandonment has taken place, this issue of fact shall be determined as provided in G.S. 1-273, and if abandonment is determined, then the consent of the parent, parents, or guardian of the person shall not be required. Upon final determination of this issue of fact the proceeding shall be transferred back to the special proceedings docket for further action by the clerk.

(d) A copy of the order terminating parental rights or a copy of the order declaring a child abandoned as provided in subsections (b) and (c) must be filed in the proceeding with the petition in which case consent must be given or withheld in accordance with G.S. 48-9, subsection (a)(2) or subsection (a)(3)."

Sec. 2. G.S. 48-2(3b), as the same appears in Volume 2A of the 1974 Cumulative Supplement to the General Statutes, is hereby amended by deleting

from line 5 thereof the words "one year" and substituting therefor the words "six months".

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of May, 1975.

H. B. 478 CHAPTER 322

AN ACT TO AMEND G.S. 122-58.7(c) TO AUTHORIZE ALLEGED INEBRIATES TO WAIVE COUNSEL AT INVOLUNTARY COMMITMENT HEARINGS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 122-58.7(c) is rewritten to read as follows:

"(c) If the respondent is allegedly mentally ill, he shall be represented by counsel of his choice, or, if he is indigent within the meaning of G.S. 7A-450, or refuses to retain counsel if financially able to do so, by counsel appointed by the court. If the respondent is an alleged inebriate, he may be represented by counsel of his choice, or he may waive counsel, if the judge finds that he is sober and capable of making an informed decision, and that the waiver is voluntary. If the alleged inebriate does not waive counsel and is an indigent within the meaning of G.S. 7A-450, the court shall appoint counsel to represent him."

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 19th day of May, 1975.

H. B. 544 CHAPTER 323

AN ACT TO AUTHORIZE THE GRANVILLE COUNTY BOARD OF COMMISSIONERS TO ENTER INTO CONTRACTS NOT TO EXCEED THE TOTAL AMOUNT OF FORTY THOUSAND DOLLARS ($40,000) FOR THE PURPOSE OF REPAIR AND RENOVATION OF THE CLERK OF COURT AND REGISTER OF DEEDS OFFICE.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of G.S. 143-128, G.S. 143-129, G.S. 143-131 and G.S. 143-132, the Granville County Board of County Commissioners is hereby authorized and empowered to enter into a contract or contracts for the purpose of repairs to and renovations of the offices of the Granville County clerk of court and register of deeds in such manner and upon such terms and conditions as the board deems most appropriate. Provided however, the authority granted herein shall apply only to a total combined cost of such repairs and renovations to the said offices in an amount not to exceed forty thousand dollars ($40,000).

Sec. 2. This act shall apply only to Granville County.

Sec. 3. This act shall become effective upon ratification and shall remain effective through July 1, 1976.

In the General Assembly read three times and ratified, this the 19th day of May, 1975.

H. B. 554 **CHAPTER 324**

AN ACT TO ALLOW THE PEOPLE OF BRUNSWICK COUNTY TO DECIDE BY REFERENDUM WHETHER THE COUNTY SEAT, THE COURTHOUSE, AND ALL OTHER BUILDINGS AND AGENCIES OF BRUNSWICK COUNTY SHOULD BE RELOCATED FROM SOUTHPORT TO THE GENERAL VICINITY OF SUPPLY AND BOLIVIA, AND TO ESTABLISH GUIDELINES FOR THE RELOCATION.

The General Assembly of North Carolina enacts:

Section 1. The Brunswick County Board of Elections shall conduct a countywide referendum on July 19, 1975, on the question of whether the county seat of Brunswick County, along with the courthouse and other county buildings and agencies, should be relocated from Southport to the general vicinity of Supply and Bolivia. Except as otherwise provided in this act, the board of elections shall conduct the referendum in accordance with G.S. Chapter 163. The notice of the referendum, required by G.S. 163-33(8), shall include the description of the general vicinity of Supply and Bolivia set out in Section 6 of this act.

Sec. 2. The proposition shall be printed on the ballot in substantially the following form:

"Shall the Brunswick County county seat, along with the courthouse and other county buildings and agencies, be relocated from Southport to the general vicinity of Supply and Bolivia?

☐ YES

☐ NO."

Sec. 3. If a majority of the votes cast on the proposition are in the negative, the county seat and county buildings and agencies shall remain in Southport.

Sec. 4. If a majority of the votes cast on the proposition are in the affirmative, the Brunswick County Board of Commissioners are under a duty to plan and carry out the relocation as expeditiously as possible. They shall forthwith select the exact location of the new county seat, within the boundaries set forth in Section 6 of this act and begin planning for the relocation, including initiating discussions with the Local Government Commission regarding financing of the relocation. If the relocation or any part thereof can be effected without the issuance of bonds, construction contracts for that part not requiring bond financing shall be let no later than July 1, 1977.

Sec. 5. A new G.S. 159-67 is enacted to read as follows:

"§ 159-67. *Procedures if a county votes to relocate the county seat.*— Whenever the citizens of a county, by referendum, decide that the county's county seat, along with the courthouse and other county buildings and agencies, should be relocated, the board of county commissioners of that county shall forthwith begin discussions with the Local Government Commission concerning financing of the relocation. If bonds are to be issued for the relocation, or a financing agreement entered into, the board of commissioners shall apply to the Local Government Commission no later than 10 months after the day of the referendum. If a bond election is necessary, it shall be held no later than 22 months after the day of the referendum."

Sec. 6. For purposes of this act, the general vicinity of Supply and Bolivia is that part of Brunswick County located within one-half mile on either side of U. S. Highway 17 extending from one and one-half miles southwest of the crossing of Highway 17 and N. C. Highway 211 to the southwestern limits of the town of Bolivia.

Sec. 7. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of May, 1975.

H. B. 577 CHAPTER 325

AN ACT TO AMEND G.S. 20-118 PERTAINING TO TRUCK AXLE WEIGHTS.

Whereas, subsections (1), (2), (3), (4) and (5) of G.S. 20-118 establish permissible axle weights for vehicles; and

Whereas, during the 1973 Session of the General Assembly passed Chapter 1449, which amended a portion of subsection (10) of G.S. 20-118 and thereby created a conflict with the other provisions of said G.S. 20-118 and it is desirable to rewrite said G.S. 20-118(10) to correct the conflict therewith; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-118(10) is amended by striking therefrom the proviso which immediately follows the table of distances and weights appearing therein and which reads:

"Provided the tandem axle weight shall not exceed 35,700 pounds where the gross weight of any vehicle or combination of vehicles having five or more axles exceeds 73,000 pounds."

Sec. 2. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 19th day of May, 1975.

H. B. 579 CHAPTER 326

AN ACT TO PROVIDE ALTERNATE METHODS OF SERVICE OF PROCESS IN CERTAIN MOTOR VEHICLE LIABILITY INSURANCE MATTERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-279.21(b)(3)a. as same appears in the 1974 Cumulatvie Supplement to Volume 1C of the General Statutes of North Carolina is hereby amended by inserting immediately after the word "motorist" and immediately before the word "in" appearing in line 4 the following words: "by registered or certified mail, return receipt requested, or".

Sec. 2. G.S. 20-279.21(f)(1) as same appears in the 1974 Cumulative Supplement to Volume 1C of the General Statutes is hereby amended by striking the words and punctuation "by registered mail with return receipt requested," appearing in lines 14 and 15 and inserting in lieu thereof the words and punctuation "by certified or registered mail with return receipt requested or served by any other method of service provided by law,".

Sec. 3. G.S. 20-48 is hereby amended by designating the now existing paragraph as subsection (a) and adding a new subsection to be designated (b) and to read as follows:

"(b) Notwithstanding any other provision of this Chapter at any time notice is now required by registered mail with return receipt requested, certified mail with return receipt requested may be used in lieu thereof and shall constitute valid notice to the same extent and degree as notice by registered mail with return receipt requested."

Sec. 4. The provisions of this act are supplemental and in addition to existing law and shall not be construed so as to repeal any existing provisions contained in the General Statutes of North Carolina.

Sec. 5. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 19th day of May, 1975.

H. B. 594 CHAPTER 327

AN ACT TO PRECLUDE LOCAL GOVERNMENTS FROM IMPOSING PRIVILEGE LICENSE TAXES UPON MANUFACTURERS, PRODUCERS, BOTTLERS AND DISTRIBUTORS OF SOFT DRINKS.

The General Assembly of North Carolina enacts:

Section 1. Article 2B of Subchapter I, Chapter 105 of the General Statutes, entitled "Schedule B-B. Soft Drink Tax", is hereby amended by adding immediately after G.S. 105-113.50 a new section, G.S. 105-113.50A, to read as follows:

"§ 105-113.50A. *Local taxation.*—Except as authorized by G.S. 105-79, no county, city or town shall levy any privilege license tax upon the business of bottling, manufacturing, producing, purchasing, selling at wholesale or retail, jobbing, consigning, using, shipping or distributing for the purpose of sale within this State, soft drinks in bottles or other closed containers."

Sec. 2. This act shall become effective on June 30, 1975.

In the General Assembly read three times and ratified, this the 19th day of May, 1975.

H. B. 683 CHAPTER 328

AN ACT TO REVISE AND TRANSFER G.S. 147-52 TO A NEW SECTION G.S. 7A-14.

The General Assembly of North Carolina enacts:

Section 1. G.S. 147-52 is hereby transferred to a new section G.S. 7A-14 and is revised to read as follows:

"§ 7A-14. *Reprints of Supreme Court Reports.*—The Supreme Court is authorized to have such of the Reports of the Supreme Court of the State of North Carolina as are not on hand for sale, republished and numbered consecutively, retaining the present numbers and names of the reporters and by means of star pages in the margin retaining the original numbering of the pages. The Supreme Court is authorized to have such Reports reprinted without any alteration from the original edition thereof, except as may be directed by the Supreme Court. The contract for such reprinting and republishing shall be made by the Administrative Office of the Courts in the manner prescribed in G.S.

7A-6. Such republication shall thus continue until the State shall have for sale all of such Reports; and hereafter when the editions of any number or volume of the Supreme Court Reports shall be exhausted, it shall be the duty of the Supreme Court to have the same reprinted under the provisions of this section and G.S. 7A-6. In reprinting the Reports that have already been annotated, the annotations and the additional indexes therein shall be retained."

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of May, 1975.

H. B. 733 CHAPTER 329

AN ACT TO AMEND G.S. 18A-2 TO DEFINE PASSENGER AREA OF A MOTOR VEHICLE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 18A-2 is hereby amended by adding a new subdivision thereto to read as follows:

"The term 'passenger area of a motor vehicle' shall mean that area designed for the seating of the driver and passengers as well as any area that can be within the reach of a seated driver or passenger, including the glove compartment. In the case of a station wagon, hatch-back or similar vehicle, that area to the rear of the last back seat shall not constitute part of the passenger area."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of May, 1975.

H. B. 771 CHAPTER 330

AN ACT TO REPLACE ANNUAL MALT BEVERAGE AND WINE PERMITS WITH PERMANENT PERMITS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 18A of the General Statutes of North Carolina is hereby amended by rewriting G.S. 18A-37 in its entirety to read as follows:

"§ 18A-37. *Permit and license required.*—Malt beverages and wine (fortified and unfortified) may be manufactured, bottled or sold in this State only after the person desiring to engage in such activity has acquired an appropriate permit from the State Board of Alcoholic Control as provided in this Article, and has secured the license or licenses required by Article 2C, Subchapter I, Chapter 105 of the General Statutes.

Permits for salesmen for a wholesale distributor of malt beverages or wine (fortified or unfortified) and permits for the retail and wholesale sale of malt beverages and wine shall continue until voluntarily surrendered to the board, or until suspended or revoked by the board, or in the event of change of location, change of ownership, or death of the owner.

All other permits shall be for a period of one year unless sooner revoked or suspended and shall expire on April 30 of each year.

The State Board of Alcoholic Control shall arrange to computerize the files for permits as soon as feasible and once computerized shall retain a permanent number for each permit."

Sec. 2. G.S. 18A-42(a) is amended by deleting "and shall renew the permit by May 1 of each succeeding year thereafter" from the first sentence of the section and by adding at the end of that section the following:

"A salesman's permit shall continue until voluntarily surrendered to the board, or until suspended or revoked by the board, or until the salesman ceases to be employed by the employer for whom he was working when he obtained his most recent permit."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of May, 1975.

S. B. 591 CHAPTER 331

AN ACT TO DELETE ORANGE COUNTY FROM THE PROVISIONS OF G.S. 14-401.5 PROHIBITING THE PRACTICE OF PHRENOLOGY AND SIMILAR ACTIVITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-401.5, as the same appears in the 1974 Cumulative Supplement to Volume 1B of the General Statutes, is hereby amended in the third unnumbered paragraph on line 7 by deleting the word "Orange".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of May, 1975.

S. B. 626 CHAPTER 332

AN ACT TO AUTHORIZE THE GOVERNING BODY OF THE TOWN OF HIGHLANDS TO ACCEPT FUNDS AND TO ESTABLISH AND ADMINISTER A SCHOLARSHIP PROGRAM FOR GRADUATES OF HIGHLANDS HIGH SCHOOL.

The General Assembly of North Carolina enacts:

Section 1. The governing body of the Town of Highlands is hereby authorized to accept gifts, contributions and donations of real and personal property, subject to the terms or conditions imposed by the grantor or trustor, for the purpose of establishing an academic scholarship fund and program for graduates of the Highland High School. No public funds shall be used to establish and administer the scholarship fund.

Sec. 2. The governing body of the Town of Highlands is authorized to deposit and invest moneys in the fund in accordance with the provisions of G.S. 159-30(a), (b) and (c), provided, however, that the Local Government Commission shall have no power or authority over the scholarship fund. The scholarship fund shall be audited each year by the person or firm auditing the accounts of the Town of Highland and the expense of the audit shall be paid from the moneys in the scholarship fund.

Sec. 3. The governing body shall appoint a scholarship committee, consisting of five members who shall be residents of Highlands school area. One member shall be a businessman of the area and shall serve for an initial term of

three years. One member shall be a Minister of the Gospel or a church leader of the area and shall serve for an initial term of two years. One member shall be a citizen of the area who is active in community affairs and shall serve for an initial term of one year. Thereafter each of these terms shall be for three years. One member shall be the principal of Highlands High School and shall serve during his tenure as principal. One member shall be the attorney for the Town of Highlands and shall serve during his tenure as town attorney.

The town governing body shall appoint to fill any vacancy occurring in the committee some person having the same qualifications as required for the member causing the vacancy. The appointment shall be for the unexpired term.

The town board shall have the power and authority to remove any member of the scholarship committee at any time when the board determines that removal is in the best interest of the scholarship fund.

Sec. 4. Duties of the scholarship committee.

(1) The committee shall recommend to the town council procedures for the management of the scholarship funds and render advice and make recommendations as to the appropriate manner of investing the funds, subject to the provisions of Section 2 of this act.

(2) The committee shall oversee the administration of the scholarship fund affairs, endeavor to solicit additional contributions from members of the private sector of the community, and generally use its best efforts to promote and perpetuate the continuation of the scholarship fund and program.

(3) The committee shall accept applications for scholarships from seniors of the Highlands High School who anticipate furthering their education in either colleges, universities, or vocational training schools. Having interviewed and/or screened all applicants, the committee shall submit to the town council a series of recommendations concerning disbursal of all investment income and, possibly, disbursal of all or a portion of the principal of the scholarship fund to the applicant(s) deemed worthy by the committee. The town council shall review these recommendations and either accept or reject the same.

(4) Upon acceptance of the committee's recommendations, the town council shall cause the scholarship fund to be awarded in the manner recommended by the committee. Payment of scholarship funds may be made either directly to the institution in which the recipient is enrolled or, alternately, to the recipient personally.

Sec. 5. No member of the town governing body or of the scholarship committee shall receive any compensation for services rendered under this act.

Sec. 6. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of May, 1975.

S. B. 709 **CHAPTER 333**

AN ACT TO ABOLISH THE OFFICE OF CORONER IN FRANKLIN COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The office of coroner in Franklin County is hereby abolished, and Chapter 152 of the General Statutes shall not hereafter be applicable to Franklin County.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of May, 1975.

H. B. 155 **CHAPTER 334**

AN ACT TO AMEND CHAPTER 163 OF THE GENERAL STATUTES RELATING TO CAMPAIGN CONTRIBUTIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-278.23 is hereby amended by adding a new subsection at the end to read as follows:

"(9) The Executive Secretary-Director of the Board of Elections shall issue written rulings to candidates and may issue written rulings to the communications media and political committees, upon request, regarding filing procedures and compliance with this Article. Any such ruling so issued shall specifically refer to this subsection. If the candidate, communications media, or political committees rely on and comply with the ruling of the Executive Secretary-Director of the Board of Elections, then prosecution on account of the procedure followed pursuant thereto and prosecution for failure to comply with the statute inconsistent with the written ruling of the Executive Secretary-Director of the Board of Elections issued to the candidate involved shall be barred. Nothing in this subsection shall be construed to prohibit or delay the regular and timely filing of reports."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of May, 1975.

H. B. 404 **CHAPTER 335**

AN ACT TO PROHIBIT THE BUYING AND SELLING OF CHILDREN FOR ADOPTION AND TO PROHIBIT ADVERTISEMENTS SOLICITING CHILDREN FOR ADOPTION.

The General Assembly of North Carolina enacts:

Section 1. Chapter 48 of the General Statutes is hereby amended by adding the following section immediately following G.S. 48-36, to be numbered G.S. 48-37, and to read as follows:

"§ 48-37. *Compensation for placing or arranging placement of child for adoption prohibited.*—No person, agency, association, corporation, institution, society or other organization, except a licensed child-placing agency as defined by G.S. 48-2(2), or a county department of social services, shall offer or give, charge or accept any fee, compensation, consideration or thing of value for receiving or placing, arranging the placement of, or assisting in placing or

arranging the placement of, any child for adoption. The act of preparing and filing the adoption proceeding before the court shall not be construed as receiving or placing, arranging the placement of, or assisting in placing or arranging the placement of, any child for adoption. Any person who violates any provision of this section shall be guilty of a misdemeanor, and upon conviction or plea of guilty shall be fined or imprisoned or both at the discretion of the court. Any person who is convicted of or pleads guilty to a second or subsequent violation of this section shall be guilty of a felony and shall be imprisoned for not more than three years or fined not more than ten thousand dollars ($10,000) or both at the discretion of the court."

Sec. 2. Chapter 48 of the General Statutes is further amended by adding the following section, immediately following G.S. 48-37 to be numbered G.S. 48-38, and to read as follows:

"§ 48-38. *Advertisements soliciting children for adoption prohibited.*—No person, agency, association, corporation, institution, society or other organization, except a licensed child-placing agency as defined in G.S. 48-2(2), or a county department of social services, shall publish, transmit, broadcast, or otherwise distribute any advertisement of any type whatsoever which solicits the receiving or placing of children for adoption, or which solicits the custody of children. Any person who violates any provision of this section shall be guilty of a misdemeanor and upon conviction or plea of guilty shall be fined or imprisoned or both at the discretion of the court."

Sec. 3. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 19th day of May, 1975.

H. B. 728 CHAPTER 336

AN ACT TO APPROVE, CONFIRM AND VALIDATE THE ORDINANCE OF THE TOWN OF STONEVILLE PROVIDING A THIRTY PERCENT (30%) DISCOUNT FOR ALL AD VALOREM TAXES LEVIED FOR THE 1974-1975 FISCAL YEAR.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of G.S. 105-380, the ordinance of the Town of Stoneville ratified August 9th, 1974, authorizing a thirty percent (30%) discount upon the amount of any ad valorem taxes levied against property for the 1974-1975 fiscal year, and all refunds and penalties computed in accordance with said ordinance, are hereby approved, confirmed, validated and declared to be proper, valid and legal.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of May, 1975.

H. B. 732 **CHAPTER 337**

AN ACT RELATING TO THE COMPENSATION OF THE MEMBERS OF THE BOARD OF EDUCATION OF MOORE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The members of the Board of Education of Moore County shall be paid as compensation for their services the sum of twenty dollars ($20.00) per day for each day they attend meetings of the board. The chairperson of the Board of Education, in addition to the twenty dollars ($20.00) per day for each meeting of the board, shall be paid the sum of fifty dollars ($50.00) per month.

The chairperson and each member shall be paid twelve cents (12¢) per mile for all necessary travel incurred in the performance of their official duties.

Sec. 2. Section 2 of Chapter 651, Session Laws of 1953, and all laws in conflict with this act, are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of May, 1975.

H. B. 740 **CHAPTER 338**

AN ACT TO PROVIDE COMPENSATION FOR THE BOARD OF EDUCATION OF NORTHAMPTON COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The Chairman of the Board of Education of Northampton County shall receive as compensation for his services the sum of thirty-five dollars ($35.00) for each official meeting of the board, and each member shall receive as compensation thirty dollars ($30.00) for each official meeting of the board. Provided, that the chairman and members shall not be compensated for more than 24 official meetings per year.

Sec. 2. Chapter 991 Session Laws 1967 is repealed.

Sec. 3. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 19th day of May, 1975.

H. B. 748 **CHAPTER 339**

AN ACT TO AUTHORIZE THE BOARD OF EDUCATION OF HYDE COUNTY TO CONVEY A CERTAIN TRACT OF LAND TO THE SLADESVILLE CIVIC CLUB.

Whereas, the Board of Education of Hyde County owns a tract of land consisting of approximately three acres which has not been used for school purposes for several years; and

Whereas, said land has been determined by the Board of Education to be no longer necessary or desirable for public school purposes; and

Whereas, the Sladesville Civic Club desires to acquire said property for community purposes; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The Board of Education of Hyde County is hereby authorized to sell at private sale, and to convey to the Sladesville Civic Club, upon such

consideration as the Board of Education deems fair and reasonable, that certain tract of land hereinafter described as follows:

"Beginning at the Southeast corner of the Sladesville School property and across from the intersection of State Highway 1143 with 1142, which is the point of beginning; and running North 5° East 4.66 chains to a point; thence running North 45 3/4° West 1.03 chains to a point; thence running South 11° West 5.38 chains to a point; thence running South 74° 30 minutes East 4.49 chains to a point; thence running North 87° 30 minutes East 1.53 chains to the point of beginning containing three (3) acres more or less. The foregoing courses are magnetic as of March 1927."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of May, 1975.

S. B. 267 CHAPTER 340

AN ACT TO REQUIRE REGISTRATION OF ALL MOTORBOATS ON PUBLIC WATERS OF THIS STATE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 75A-2(1) is hereby amended by rewriting the same to read as follows:

"(1) 'Motorboat' means any vessel equipped with propulsion machinery of any type, whether or not such machinery is the principal source of propulsion: Provided, that 'propulsion machinery' as used in this section shall not include an electric motor when used as the only means of mechanical propulsion of any vessel: Provided further, that the term 'motorboat' shall not include a vessel which has a valid marine document issued by the Bureau of Customs of the United States government or any federal agency successor thereto."

Sec. 2. Subsection (n) of G.S. 75A-6 is hereby amended by deleting the proviso at the end of subsection and by changing the colon following the word "collision" to a period.

Sec. 3. G.S. 75A-8 is hereby amended by deleting the words "boat equipped with more than ten horsepower" and by inserting in lieu thereof the word "motorboat".

Sec. 4. This act shall become effective January 1, 1976.

In the General Assembly read three times and ratified, this the 21st day of May, 1975.

S. B. 393 CHAPTER 341

AN ACT TO PROHIBIT HUNTING FROM PUBLIC HIGHWAYS IN JOHNSTON COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It shall be unlawful for any person to hunt, take or kill any species of wild animal or wild bird by the use of any loaded firearm from the roadway or right-of-way of any State-maintained road or highway, or to discharge a firearm on or across any such road or highway in Johnston County.

Sec. 2. Any person violating the provisions of this act shall be guilty of a misdemeanor and upon conviction shall be fined a sum not to exceed fifty dollars

($50.00) or imprisoned for a period not to exceed 30 days, or both, in the discretion of the court.

Sec. 3. All peace officers of the county and State, including wildlife protectors, are hereby authorized, and it shall be their duty to aid in the enforcement of this act.

Sec. 4. This act shall apply only to Johnston County.

Sec. 5. This act shall become effective on and after July 1, 1975.

In the General Assembly read three times and ratified, this the 21st day of May, 1975.

S. B. 394 CHAPTER 342

AN ACT TO PREVENT HUNTING DEER WITH DOGS IN JOHNSTON COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It shall be unlawful to allow dogs to chase deer, or to hunt or attempt to take deer with the aid of dogs at any time in Johnston County.

Sec. 2. Any person violating the provisions of this act shall be guilty of a misdemeanor and upon conviction shall be fined not in excess of fifty dollars ($50.00) or imprisoned not exceeding thirty (30) days, or both, in the discretion of the court.

Sec. 3. This act shall apply only to Johnston County.

Sec. 4. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 21st day of May, 1975.

S. B. 395 CHAPTER 343

AN ACT TO REQUIRE PERSONS HUNTING DEER WITH RIFLES IN JOHNSTON COUNTY TO SECURE THE WRITTEN CONSENT OF THE LANDOWNERS.

Whereas, all of the conditions set forth in the preamble of Chapter 928 of the Session Laws of 1965 with respect to the counties of Warren and Franklin are found to exist in Johnston County, and the same considerations and apprehensions therein expressed are shared equally by the citizens and residents of Johnston County; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Sections 1 and 2 of Chapter 928 of the Session Laws of 1965 are hereby amended by substituting for the words "or Franklin" where the same appear in said sections the words and punctuation ", Franklin or Johnston".

Sec. 2. Sections 3 and 4 of Chapter 928 of the Session Laws of 1965 shall also apply in all respects to Johnston County.

Sec. 3. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 4. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 21st day of May, 1975.

S. B. 459 **CHAPTER 344**

AN ACT TO TRANSFER G.S. 28-68 TO G.S. Chapter 28A.

The General Assembly of North Carolina enacts:

Section 1. G.S. 28-68, 28-68.1, 28-68.2, and 28-68.3, as presently set out in the 1974 Cumulative Supplement to G.S. Volume 2A, and currently scheduled for repeal effective July 1, 1975, by Section 1 of Chapter 1329, Session Laws of 1973 (second session), are redesignated G.S. 28A-25-6, and revised to read as follows:

"§ 28A-25-6. *Payment to clerk of money owed intestate.*—(a) As an alternative to the small estate settlement procedures of this Article, any person indebted to an intestate may satisfy such indebtedness by paying the amount of the debt to the clerk of the superior court of the county of the domicile of the intestate:

(1) if no administrator has been appointed, and

(2) if the amount owed by such person does not exceed two thousand dollars ($2,000), and

(3) if the sum tendered to the clerk would not make the aggregate sum which has come into the clerk's hands belonging to the intestate exceed two thousand dollars ($2,000).

(b) Such payments may not be made to the clerk if the total amount paid or tendered with respect to any one intestate would exceed two thousand dollars ($2,000), even though disbursements have been made so that the aggregate amount in the clerk's hands at any one time would not exceed two thousand dollars ($2,000).

(c) If the sum tendered pursuant to this section would make the aggregate sum coming into the clerk's hands with respect to any one intestate exceed two thousand dollars ($2,000) the clerk shall appoint an administrator, or the sum may be administered under the preceding sections of this Article.

(d) If it appears to the clerk after making a preliminary survey that disbursements pursuant to this section would not exhaust funds received pursuant to this section, he may, in his discretion, appoint an administrator, or the funds may be administered under the preceding sections of this Article.

(e) The receipt from the clerk of the superior court of a payment purporting to be made pursuant to this section is a full release to the debtor for the payment so made.

(f) If no administrator has been appointed, the clerk of superior court shall disburse the money received under this section for the following purposes and in the following order:

(1) To pay the surviving spouse's year's allowance and children's year's allowance assigned in accordance with law;

(2) To pay any lawful claims for funeral expenses of the deceased, not to exceed six hundred dollars ($600.00) as a preferred claim, or to reimburse any person for the payment thereof;

(3) To pay any lawful claims for hospital, medical and doctor's bills for the last illness of the deceased, such period of last illness not to exceed 12 months, or to reimburse any person for the payment thereof.

After the death of a spouse who died intestate and after the disbursements have been made in accordance with this subsection, the balance in the clerk's hands belonging to the estate of the intestate shall be paid to the surviving

spouse, and if there is no surviving spouse, the clerk shall pay it to the heirs or distributees in proportion to their respective interests.

(g) The clerk shall not be required to publish notice to creditors.

(h) Whenever an administrator is appointed after a clerk of superior court has received any money pursuant to this section, the clerk shall pay to the administrator all funds which have not been disbursed. The clerk shall receive no commissions for payments made to the administrator, and the administrator shall receive no commission for receiving such payments."

Sec. 2. This act shall become effective the same day as Chapter 1329, Session Laws of 1973, becomes effective.

In the General Assembly read three times and ratified, this the 21st day of May, 1975.

S. B. 509 **CHAPTER 345**

AN ACT TO PROHIBIT THE EXCLUSION OF SICKNESS AND ACCIDENT BENEFITS FOR PATIENTS RECEIVING MEDICAL CARE IN STATE TAX-SUPPORTED FACILITIES WHEN BENEFITS WOULD OTHERWISE BE PAYABLE.

The General Assembly of North Carolina enacts:

Section 1. Article 26 of Chapter 58 of the General Statutes of North Carolina is hereby amended by adding a new section thereto to be designated G.S. 58-251.7 and to read as follows:

"§ 58-251.7. *Insurers and others to afford coverage for active medical treatment in tax-supported institutions.*—(a) No policy providing benefits for charges of hospitals or physicians shall be delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State by the Commissioner of Insurance, after the effective date of this section unless such policy provides for the payment of benefits for charges made for medical care rendered in or by duly licensed State tax-supported institutions, including charges for medical care of cerebral palsy, other orthopedic and crippling disabilities, mental and nervous diseases and disorders, mental retardation, alcoholism and drug or chemical dependency, and respiratory illness, on a basis no less favorable than the basis which would apply had the medical care been rendered in or by any other public or private institution or provider. The term 'State tax-supported institutions' shall include community mental health centers and other health clinics which are certified as Medicaid providers.

(b) No policy shall exclude payment for charges of a duly licensed State tax-supported institution because of its being a specialty facility for one particular type of illness nor because it does not have an operating room and related equipment for the performance of surgery, but it is not required that benefits be payable for domiciliary or custodial care, rehabilitation, training, schooling, or occupational therapy.

(c) The restrictions and requirements of this act shall not apply to any policy which is individually underwritten or provided for a specific individual and the members of his family as a nongroup policy, but shall apply only to those group policies of insurance delivered, issued for delivery, reissued or renewed in this State on and after July 1, 1975."

Sec. 2. Chapter 57 of the General Statutes of North Carolina is hereby amended by adding a new section thereto to be designated G.S. 57-7.1 and to read as follows:

"§ 57-7.1. *Coverage for active medical treatment in tax-supported institutions.*—(a) No hospital or medical or dental service plan, contract or certificate governed by the provisions of Chapter 57 of the General Statutes of North Carolina shall be delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State by the Commissioner of Insurance, after the effective date of this section unless such plan, contract or certificate provides for the payment of benefits for charges made for medical care rendered in or by duly licensed State tax-supported institutions, including charges for medical care of cerebral palsy, other orthopedic and crippling disabilities, mental and nervous diseases and disorders, mental retardation, alcoholism and drug or chemical dependency, and respiratory illness, on a basis no less favorable than the basis which would apply had the medical care been rendered in or by any other public or private institution or provider. The term 'State tax-supported institutions' shall include community mental health centers and other health clinics which are certified as Medicaid providers.

(b) No plan, contract, or certificate shall exclude payment for charges of a duly licensed State tax-supported institution because of its being a specialty facility for one particular type of illness nor because it does not have an operating room and related equipment for the performance of surgery, but it is not required that benefits be payable for domiciliary or custodial care, rehabilitation, training, schooling, or occupational therapy.

(c) The restrictions and requirements of this act shall not apply to any plan, contract, or certificate which is individually underwritten or provided for a specific individual and the members of his family as a nongroup policy, but shall apply only to those hospital service and medical service subscriber plans, contracts, or certificates delivered, issued for delivery, reissued or renewed in this State on and after July 1, 1975."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of May, 1975.

S. B. 621 CHAPTER 346

AN ACT TO AMEND G.S. 14-286 PROHIBITING THE MISUSE OR DAMAGE TO PORTABLE FIRE EXTINGUISHERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-286 is hereby amended as follows:

(1) By inserting after the word "fire" and before the word "or" in line 4 the words "or willfully misuse or damage a portable fire extinguisher".

(2) By inserting after the word "alarm" and before the word "system" on line 6 the words "fire detection, smoke detection or fire extinguishing".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of May, 1975.

H. B. 193 CHAPTER 347

AN ACT TO PROVIDE THAT SCHOOLS IN WAKE COUNTY MAY OPERATE RAFFLES TO RAISE FUNDS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 730 of the 1973 Session Laws, as amended by Chapter 1269 of the 1973 Session Laws is hereby amended as follows:

(a) By inserting between the words "association" and "of" on line 4 of Section 1 the words and punctuation ", or by public or private schools or educational institutions";

(b) By inserting the word and punctuation "school," after the word "church," on lines 1 and 3 of Section 2.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of May, 1975.

H. B. 484 CHAPTER 348

AN ACT TO PROVIDE FUNDS FOR THE OPERATION OF THE FINANCIAL SECURITY SECTION OF THE DEPARTMENT OF MOTOR VEHICLES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-309(c) is hereby amended by inserting immediately after the word "pay" and immediately before the word "the" appearing in line 15 the words "a restoration fee of fifteen dollars ($15.00) and".

Sec. 2. G.S. 20-309(e) is hereby amended by inserting immediately after the word "pay" and immediately before the word "the" appearing in line 27 the words "a restoration fee of fifteen dollars ($15.00) and".

Sec. 3. G.S. 20-309 is hereby amended by adding a new subsection to be designated subsection "(f)" and to read as follows:

"(f) The fees collected under this section and G.S. 20-311 shall be placed in the highway fund."

Sec. 4. G.S. 20-311 is hereby amended by inserting immediately after the word "pay" and immediately before the word "the" appearing in line 13 the words "a restoration fee of fifteen dollars ($15.00) and".

Sec. 5. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 21st day of May, 1975.

H. B. 583 CHAPTER 349

AN ACT TO AUTHORIZE FORSYTH COUNTY TO REPAIR, REMODEL AND RENOVATE THE FORSYTH COUNTY COURTHOUSE.

The General Assembly of North Carolina enacts:

Section 1. The Board of Commissioners of Forsyth County is hereby authorized to repair, alter, remodel and renovate the interior of the Forsyth County Courthouse located between Third and Fourth and Main and Liberty Streets in the City of Winston-Salem by the use of permanent or temporary county personnel and employees without compliance with the provisions of Article 8 of Chapter 143 of the North Carolina General Statutes, except for heating and air conditioning, plumbing, and electrical work, which must be bid and performed as required by G.S. 143-128 and 129. The authority of the board

of commissioners to perform the other work with county employees is limited to an amount not to exceed one hundred thousand dollars ($100,000).

Sec. 2. This act shall apply only to Forsyth County.

Sec. 3. This act shall become effective upon ratification and shall expire on July 1, 1977.

In the General Assembly read three times and ratified, this the 21st day of May, 1975.

H. B. 615 CHAPTER 350

AN ACT TO ALLOW CREDITABLE SERVICE IN THE NORTH CAROLINA LOCAL GOVERNMENTAL EMPLOYEE'S RETIREMENT SYSTEM FOR CERTAIN EMPLOYEES OF GRANVILLE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of Chapter 128 of the General Statutes, the Board of Trustees of the North Carolina Local Governmental Employee's Retirement System may and is authorized to allow creditable service to the employees, both active and retired, of Granville County for their previous service to Granville County Hospital, Granville Hospital Association, Inc., and such predecessors as existed, and to cause the retirement allowance of such employees to be calculated or recalculated using the additional creditable service; provided that the Board of Commissioners of Granville County, in its discretion, shall agree to grant and fund such additional creditable service.

Sec. 2. The cost to fund these additional service credits shall be paid by Granville County by an increase in the employer contribution rate in the manner set forth in G.S. 128-30(d).

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of May, 1975.

H. B. 646 CHAPTER 351

AN ACT TO MAKE THE PROHIBITION AGAINST THE PRACTICE OF PHRENOLOGY, PALMISTRY, FORTUNE-TELLING OR CLAIRVOYANCE APPLICABLE TO LENOIR COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-401.5 of Volume 1B of the 1974 Cumulative Supplement to the General Statutes is hereby amended on line 16 by inserting after the word and punctuation "Lee," and before the word and punctuation "Madison," the word and punctuation "Lenoir,".

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 21st day of May, 1975.

H. B. 681 **CHAPTER 352**

AN ACT TO PROVIDE FOR THE SALARIES AND TRAVEL EXPENSES OF THE MEMBERS OF THE BOARD OF EDUCATION OF CURRITUCK COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The Chairman and members of the Currituck County Board of Education shall receive payment for their services on the same basis as the Chairman and members of the Currituck County Board of Commissioners.

Sec. 2. The members of the Board of Education of Currituck County shall be reimbursed for actual expenses incurred when they are engaged in official business of the board of education, including personal auto travel reimbursed at the rate established by the State Board of Education for private auto use.

Sec. 3. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of May, 1975.

H. B. 737 **CHAPTER 353**

AN ACT TO AMEND CHAPTER 1155 OF THE 1971 SESSION LAWS RELATING TO THE SUPPLEMENTARY PENSION FUND FOR FIREMEN IN THE CITY OF SANFORD.

The General Assembly of North Carolina enacts:

Section 1. Chapter 1155 of the Session Laws is hereby amended by rewriting Section 3 to read as follows:

"Sec. 3. Any person who is a member of the Sanford Fire Department as shown by the records of the city of Sanford, or who was a member as of July 21, 1971, or any person who shall become such a member, shall be eligible for benefits from the 'Supplementary Pension Fund.' It is further provided that this act shall not modify or alter in any way the Workmen's Compensation Laws of the State of North Carolina."

Sec. 2. This act shall become effective upon ratification. The benefits described herein shall be retroactive to July 21, 1971.

In the General Assembly read three times and ratified, this the 21st day of May, 1975.

H. B. 767 **CHAPTER 354**

AN ACT TO AMEND CHAPTER 1273, SESSION LAWS 1953, AS AMENDED BY CHAPTER 245, SESSION LAWS OF 1961.

The General Assembly of North Carolina enacts:

Section 1. That Chapter 1273, Session Laws of 1953, as amended by Chapter 245, Session Laws of 1961, be, and the same is hereby amended as follows:

(a) That Section 5 of said act, as amended, be, and the same is hereby amended to read as follows:

"Sec. 5. Penalties for violations. Any person, firm or corporation violating any rule or regulation adopted by the Board of Directors of the Greensboro-High Point Airport Authority pursuant to this act shall be guilty of a misdemeanor and fined not exceeding fifty dollars ($50.00) or imprisoned not exceeding 10 days, in the discretion of the court."

(b) That Section 5(a) of said act, as amended, be, and the same is hereby amended as follows:

"Sec. 5(a). The sheriff or other lawful officer of Guilford County is authorized and empowered in the case of the violation of any regulation or rule adopted by the Greensboro-High Point Airport Authority relating to the parking of automobiles, trucks, and motorcycles in any loading zone, or designated parking area owned by the authority, or upon any public street within the property of the authority, and made effective pursuant to the provisions of this act to give, serve, or mail, any person a ticket or citation for any such violation; any person receiving such citation or ticket for any such automobile, truck, or motorcycle parking violation may pay, within the time named in such ticket or citation, to the sheriff of Guilford County at his office in Greensboro or High Point in person, or by mail, the sum of one dollar and fifty cents ($1.50) for each violation as payment of the civil penalty therefor and be discharged from any criminal prosecution or penalties pursuant to Section 5 hereof. In the event the sheriff or other lawful officer of Guilford County deems it necessary to move any automobile, truck, or motorcycle from an area where a violation occurs, such sheriff and other lawful officers are authorized and empowered to move, or cause the moving of, such automobile, truck, or motorcycle, and to park and store or cause to be parked and stored such automobile, truck, or motorcycle, and the owner thereof shall pay all moving and storage charges due any person, firm, or corporation therefor, and said sheriff or other lawful officer shall have no liability for any such charges for removal and storage of such automobile, truck, or motorcycle."

(c) That Section 5(b) of said act, as amended, be, and the same is hereby amended as follows:

"Sec. 5(b). Any person given, served, or mailed a ticket or citation by the sheriff or other lawful officer of Guilford County for a violation of any automobile, truck, or motorcycle parking rule or regulation pursuant to Section 5(a) above, may tender and pay an amount equal to the sum provided as payment of the civil penalty, and in addition pay to others all sums due to them for storage and costs of moving automobiles, trucks, or motorcycles as herein provided."

Sec. 2. If any part or parts of this act shall be held to be unconstitutional, such unconstitutionality shall not affect the validity of the remaining parts of this act, and all laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of May, 1975.

H. B. 806 **CHAPTER 355**

AN ACT TO AMEND CHAPTER 141 OF THE 1961 SESSION LAWS TO ENLARGE THE PURPOSES FOR WHICH THE STANLY COUNTY "INDUSTRIAL DEVELOPMENT COMMISSION" MAY BE CREATED, TO ENLARGE THE AUTHORITY OF SAID COMMISSION AND TO ELIMINATE THE USE OF INTANGIBLES TAX FUNDS AS A SOURCE OF REVENUE FOR FUNDING THE OPERATION OF SAID COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 141 of the 1961 Session Laws is hereby amended by changing the period to a comma at the end of Section 1 and adding "and for the further purpose of aiding and encouraging existing private enterprises in Stanly County".

Sec. 2. Section 2 of Chapter 141 of the 1961 Session Laws is hereby amended by deleting the first three sentences of said section and substituting therefor the following:

"Such commission shall be composed of 10 members to be appointed by the Board of County Commissioners for Stanly County. In making said appointments the board shall seek to achieve representation from the various geographic areas of the county and to maintain equal balance insofar as political party affiliation is concerned."

Sec. 3. Section 2 of Chapter 141 of the 1961 Session Laws is hereby amended by adding a new section to be designated as Section 2.1 to read as follows:

"Sec. 2.1. The President of the Albemarle-Stanly County Chamber of Commerce shall serve as an ex-officio member of the Industrial Development Commission in addition to the 10 members to be appointed by the Board of Commissioners for Stanly County, but said president shall not be entitled to a vote."

Sec. 4. Section 5 of Chapter 141 of the 1961 Session Laws is hereby amended by deleting the words "county accountant" at the beginning of the second sentence and substituting therefor the words "county manager".

Sec. 5. Section 5 of Chapter 141 of the 1961 Session Laws is hereby amended by adding a new section to be designated as Section 5.2 to read as follows:

"Sec. 5.2. The Industrial Development Commission shall also have authority to enter into a contract with the Albemarle-Stanly County Chamber of Commerce pursuant to which said Chamber of Commerce will provide to the Industrial Development Commission and to the County of Stanly the services of an executive officer qualified in the field of industrial development who shall be subject to the direction of the Industrial Development Commission in implementing the purposes for which the Industrial Development Commission is created. Said executive officer may be an employee of said Chamber of Commerce. The Industrial Development Commission is authorized to pay to said Chamber of Commerce, out of funds appropriated to the Industrial Development Commission by the county commissioners, such amount as the Industrial Development Commission deems proper for the services of said executive officer and for office space, supplies, record keeping and other

necessary and proper expenses incurred in the implementation of the purposes for which the Industrial Development Commission is created."

Sec. 6. Section 6 of Chapter 141 of the 1961 Session Laws is hereby amended by rewriting Section 6 to read as follows:

"Sec. 6. The Board of County Commissioners for Stanly County is hereby authorized, in its discretion, to expend any nontax funds, regardless of the source from which said nontax funds are received, in order to implement the purposes for which the Industrial Development Commission is created."

Sec. 7. Section 7 of Chapter 141 of the 1961 Session Laws is hereby amended by adding at the end of Section 7 the following sentence: "Nothing herein contained shall limit the authority of the Board of County Commissioners for Stanly County from utilizing the provisions of Articles 2 and 3 of Chapter 158 of the North Carolina General Statutes as amended relating to economic development commissions."

Sec. 8. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of May, 1975.

H. B. 808 CHAPTER 356

AN ACT TO AUTHORIZE THE QUALIFIED VOTERS OF THE CITY OF THOMASVILLE TO DETERMINE WHETHER OR NOT ALCOHOLIC BEVERAGE CONTROL STORES MAY LEGALLY BE OPERATED IN SAID CITY.

The General Assembly of North Carolina enacts:

Section 1. The City of Thomasville is hereby authorized to hold an election to determine whether or not alcoholic beverage control stores may be operated in said city. The City Council of the City of Thomasville shall call a special election on said question upon receipt of a petition signed by at least fifteen percent (15%) of the registered voters of the city according to the registration figures as certified by the Board of Elections. Said election may be called and held on a date to be fixed by the council, but said election shall not be held within 45 days of the date of any general, special, or primary election to be held in the city. Provided, however, that said election may be held, in the discretion of the council, on the same day of a general, special, or primary election held within the city. Said election shall be conducted by the Davidson County Board of Elections and the costs thereof shall be paid from the general fund of said city.

Sec. 2. A new registration for voters for such election shall not be necessary and all qualified voters who are properly registered prior to registration for the election and those who register for said election shall be entitled to vote in said election. Except as otherwise herein provided, if a special election is called the special election authorized shall be conducted under the same statutes, rules and regulations applicable to general elections for the City of Thomasville.

Sec. 3. The ballot shall give the voter the opportunity to vote "For" or "Against" the question presented thereon.

On the issue of whether to establish City Alcoholic Beverage Control Stores, the ballots shall contain the following:

"FOR Alcoholic Beverage Control Stores.

AGAINST Alcoholic Beverage Control Stores."

If at the first election held hereunder a majority vote is cast against alcoholic beverage control stores, then no further elections shall be held under this act. If a subsequent election shall be held and at such election a majority of the votes shall be cast "Against alcoholic beverage control stores", the Alcoholic Beverage Control Board shall within three months from the canvassing of such votes and the declaration of the results thereof, close said stores and shall thereafter cease to operate the same. No election shall be called and held under the provisions of this act within three years of the last election thereunder.

Sec. 4. If the operation of alcoholic beverage control stores is authorized under the provisions of this act, the mayor and city council of the City of Thomasville shall immediately create a City Board of Alcoholic Control to be composed of a chairman and two other members who shall be well known for their character, ability and business acumen. Said board of alcoholic control shall be known and designated as the "City of Thomasville Board of Alcoholic Control". The chairman of said board shall be designated by the mayor and the city council of the city and shall serve for a term of three years, and one member shall serve for a term of two years, and the other member shall serve for a term of one year; and all terms shall begin with the date of their appointment, and after the said terms shall have expired, their successors in office shall serve for a term of three years. Their successors, or any vacancy occurring in the board, shall be named or filled by the mayor and the city council of the city.

Sec. 5. The City of Thomasville Board of Alcoholic Control shall have all of the powers and duties imposed by Section 18A-17 of the General Statutes of North Carolina on county boards of alcoholic control and shall be subject to the powers and authority of the State Board of Alcoholic Control the same as county boards of alcoholic control as provided in Section 18A-15 of the General Statutes. The said City of Thomasville Board of Alcoholic Control in the operation of any city liquor stores authorized under the provisions of this act shall be subject to the provisions of Chapter 18A of the General Statutes, except to the extent which the same may be in conflict with the provisions of this act. Whenever the word "county" board of alcoholic control appears in said Chapter, it shall include the City of Thomasville Board of Alcoholic Control.

Sec. 6. The net profits derived from the operation of liquor control stores in the City of Thomasville shall be divided as follows:

(1) Eighty percent (80%) shall be turned over to the general fund of the City of Thomasville to be expended for any purpose or purposes, including recreation, deemed fit and proper by the city council.

(2) Five percent (5%) shall be turned over to the general fund of the City of Thomasville to be expended, at the direction of the city council for law enforcement in the city and enforcement of alcoholic beverage control laws.

(3) Ten percent (10%) shall be turned over to the general fund of the City of Thomasville to be expended, at the direction of the city council for community service activities and education on the excessive use of alcoholic beverages and the rehabilitation of alcoholics.

(4) Five percent (5%) shall be turned over to the Davidson County Board of Education, to be used by said board in its discretion for education purposes.

Sec. 7. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 8. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of May, 1975.

H. B. 817 **CHAPTER 357**

AN ACT TO AMEND CHAPTER 669 OF THE SESSION LAWS OF 1943 SO AS TO INCLUDE THE COUNTY FINANCE OFFICER AS A MEMBER OF THE BOARD OF TRUSTEES FOR THE RETIREMENT SYSTEM OF NEW HANOVER COUNTY, NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. Sections 1 and 2 of Chapter 669 of the Session Laws of 1943 are hereby amended by rewriting the same in their entirety, such sections to read as follows:

"Section 1. The Retirement System of New Hanover County, North Carolina, created by Chapter 669 of the Session Laws of 1943, shall be administered by a board of trustees composed of the following members: The County Finance Officer and two members to be appointed by the New Hanover County Board of Commissioners. The term of service of the County Finance Officer as a member of the board of trustees shall be governed by his term in office. He shall be deemed to have resigned when he ceases to hold office and the vacancy thereby created shall be filled by his successor in office. The other two members of the board of trustees shall serve for two-year terms with the first such terms commencing on July 1, 1975. All members of the board of trustees shall serve without compensation.

The board of trustees shall hold meetings upon such notice, at such place or places, and at such time as its members from time to time determine. A majority of the members of the board of trustees at the time in office shall constitute a quorum for the transaction of business. All action taken by the board of trustees at any meeting shall be by vote of the majority of its members present at such meeting; provided, however, that the board of trustees may act without a meeting by unanimous action of its members evidenced by a resolution signed by all such members.

The board of trustees shall administer the act in accordance with its terms and shall have all powers necessary to carry out the provisions of the act.

The county finance officer shall be and is hereby appointed as clerk and treasurer of the retirement system. Said individual shall receive no compensation for his services as clerk and treasurer of the retirement system.

The object of this act is to provide a retirement fund for any permanently disabled or superannuated employee of said county, as hereinafter provided, and to provide necessary funds to continue payments of compensation to those persons who may be placed on the retirement rolls of said county.

"Sec. 2. The county finance officer, as treasurer for the retirement system, shall invest and reinvest from time to time said pension fund or portions thereof in the name of 'The Board of Trustees for the Retirement System of New Hanover County' and shall, with respect to such investments and reinvestments, have the same powers and latitude that have been granted, or may from time to time be granted, to the Board of Trustees of the Local Governmental Employees

Retirement System under Article 3 of Chapter 128 of the General Statutes of North Carolina. In case such pension fund or any portion thereof shall, by order of said board or otherwise, be deposited in any bank or banks, all interest or money which may be paid or agreed to be paid on account of such sums on deposit shall belong to and constitute a part of said fund, as well as any other income or accretions arising from any investments made under this act.

All payments by or on behalf of said fund shall be made by the county finance officer, as treasurer, on vouchers properly authorized by the board of trustees.

If any section of this act shall be declared unconstitutional or invalid, it shall in no way invalidate any other section."

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall be in full force and effect from and after June 30, 1975.

In the General Assembly read three times and ratified, this the 21st day of May, 1975.

H. B. 821 **CHAPTER 358**

AN ACT TO PROVIDE STAGGERED TERMS OF TWO AND FOUR YEARS FOR THE PAMLICO COUNTY BOARD OF COMMISSIONERS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 149, Session Laws of 1949, is amended by rewriting the last paragraph in the quoted portion of Section 1 thereof to read:

"Beginning with the general election for county officers to be held in 1976, the five members of the Board of County Commissioners shall be elected for four- and two-year terms as follows. The two candidates, from separate townships, receiving the highest number of votes shall be elected for a term of four years, and the three candidates, from separate townships, receiving the next highest number of votes shall be elected for terms of two years. Thereafter, as the terms expire, the two candidates receiving the highest number of votes shall be elected for a term of four years, and the candidate receiving the next highest number of votes shall be elected for a term of two years. It is the intent of this act that only one commissioner shall be elected from a township."

Sec. 2. All local acts in conflict with this act are hereby repealed to the extent of such conflict.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of May, 1975.

H. B. 847

CHAPTER 359

AN ACT TO PROVIDE FOR THE NOMINATION AND ELECTION OF THE BOARD OF EDUCATION OF UNION COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The Board of Education of Union County shall consist of seven members who shall be nominated and elected in a partisan primary and election as herein provided. The primary and election shall be held and conducted in accordance with the general laws governing primaries and elections for county officers, except as otherwise provided herein.

Incumbent members of the present board of education shall be permitted to serve out the terms for which they were elected. In the event of a vacancy caused by other than expiration of the term, the vacancy shall be filled in accord with the provisions of the first sentence of Section 4 herein.

As the terms of the present members expire, beginning with the primary and election to be held in 1976, and every two years thereafter, members of the board of education shall be elected for terms of four years.

Sec. 2. Those persons elected to the board of education shall qualify by taking the oath of office on or before the first Monday in December after their election, and their term shall begin on such date, and they shall serve until their successors have been elected and qualified.

Sec. 3. Vacancies in the membership of the board of education selected pursuant to this act occurring for any reason shall be filled immediately by the remaining members of the board of education. The person appointed to fill the vacancy shall serve until the next election for members of the board of education, at which time a person shall be elected to fill the unexpired term. However, if a vacancy occurs in the last 26 months of a member's term, the appointment shall be for the unexpired term. If a vacancy which is to be filled only until the next election occurs after the closing of the filing period for the primary next succeeding that election, and no one has filed for the seat, the vacancy shall be filled immediately by the remaining members of the board of education.

Sec. 4. It is the intent of this act that the terms of the present members of the board of education shall not be reduced, but as their terms expire, their successors shall be elected under the terms of this act for terms of four years.

Sec. 5. All laws and clauses of laws inconsistent with this act are hereby repealed.

Sec. 6. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of May, 1975.

S. B. 110 **CHAPTER 360**

AN ACT TO AMEND CHAPTER 15 OF THE GENERAL STATUTES OF NORTH CAROLINA BY THE ADDITION OF SECTION 15-197.1 PERMITTING A CRIMINAL DEFENDANT TO BE SENTENCED TO A TERM OF SPECIAL PROBATION.

The General Assembly of North Carolina enacts:

Section 1. Article 20 of Chapter 15 of the General Statutes of North Carolina is hereby amended by adding G.S. 15-197.1 to read as follows:

"G.S. 15-197.1 *Special probation.*—(a) The legislative purpose and intent of this section is hereby defined as being to provide the sentencing judge an additional alternative to lengthy incarceration or probation when:

(1) the offense charged carries a maximum prison sentence of not more than ten years; and

(2) the defendant would otherwise be sentenced to a longer determinate sentence or a longer minimum indeterminate sentence and the defendant has not served an active sentence within the previous five (5) years; but

(3) the court, after taking into consideration the previous record of the defendant as to delinquency or criminal experience, his social background, capabilities, mental and physical health, and such other factors as may be considered pertinent, determines that

(4) the permanent rehabilitation of the offender would best be promoted by the impositon of a split sentence pursuant to this section.

(b) Upon entering a judgment of conviction for any offense where the maximum sentence is not more than 10 years, the court may, under the circumstances set forth in paragraph (a) of this section, provide that the defendant be committed to the custody of the Department of Correction, if the active sentence exceeds 30 days, for a period not to exceed six months, or one-fourth the minimum active sentence suspended in lieu thereof, whichever is less, or to a local confinement or treatment facility, if the active sentence is 30 days or less, and that the execution of the remainder of the sentence be suspended and the defendant be placed on special probation for such period and upon such terms and conditions as the court deems best which may include a condition that the defendant comply with applicable rules and regulations while in the custody of the Department of Correction. Credit for time spent in confinement prior to commitment shall not apply to reduce the length of the active sentence, but shall be applied to the remaining sentence of confinement in cases where probation is revoked. The conditions of special probation shall be fixed in the same manner as probation. The period of the active sentence imposed to precede the term of special probation shall be served day for day, without parole eligibility or credit for 'good time' granted by the Department of Correction. However, credit for 'gained time' may be applied, but only for extra days actually worked. The period of probation, together with any extension thereof, and including the period of active sentence, shall not exceed five years. The court may revoke or modify any condition of special probation, or may change the period of probation within the limits provided by this section. Special probation may be revoked or terminated in the same manner as probation."

Sec. 2. G.S. 90-95(f) is hereby repealed.

Sec. 3. This act shall become effective July 1, 1975 and shall expire on July 1, 1977.

In the General Assembly read three times and ratified, this the 22nd day of May, 1975.

S. B. 449 CHAPTER 361

AN ACT TO SPECIFY THE PERIOD IN WHICH CLAIMS AGAINST CITIES MUST BE PRESENTED AND ACTIONS BASED THEREON COMMENCED.

The General Assembly of North Carolina enacts:

Section 1. G.S. Chapter 1 is amended by adding a new G.S. 1-55.1, to read as follows:

"§ 1-55.1. *Claims against cities arising in contract or tort.*—In order to preserve a claim against a city arising in contract or in tort, notice must be given and the cause of action commenced in accordance with this section. A person with a claim against a city arising in tort or contract must give written notice of the claim to the council or its designee within six months, and commence his action within two years, after the claim is due or the cause of action arises. If the complainant suffers from one of the disabilities specified in G.S. 1-17, he or she may give the notice required by this section within the time specified, after the disability is removed. A city may at any time request the appointment of a guardian ad litem to represent a person having a potential claim against the city and known to be suffering from a disability specified in G.S. 1-17.

No action based on a claim arising in contract or in tort may be commenced except after 30 days following the day on which the notice required by this section is given. Unless notice of the claim is given and the action commenced in accordance with this section, any action based on the claim is barred."

Sec. 2. All parts of local acts, including city charters, that require notice to a city or town of any claim against it arising in contract or in tort and that prohibit suit against the city or town if notice is not given or that limit the period during which an action may be brought on such a claim after notice has been given are repealed.

Sec. 3. This act is effective October 1, 1975, but does not apply to claims becoming due or causes of action arising before that date.

In the General Assembly read three times and ratified, this the 22nd day of May, 1975.

H. B. 13 CHAPTER 362

AN ACT TO REQUIRE STATE AGENCIES PUBLISHING PERIODICALS, REPORTS, BULLETINS, BROCHURES AND SIMILAR MATERIALS TO UPDATE MAILING LISTS.

The General Assembly of North Carolina enacts:

Section 1. State agency public document mailing lists to be updated. (a) On or before July 1 of each year, beginning with July 1, 1976, the head of every agency of this State shall certify to the Director of the Budget that the mailing lists for each public document issued by his agency have been carefully reviewed, updated and corrected within the previous 12 months. The above date may be extended by the Director of the Budget for 90 days for good cause shown. The

reviewed, updated and corrected mailing lists shall be comprised only of those persons and organizations who, within the previous 12 months, have either requested that they be included in such a mailing list or have renewed a request that they be so included.

(b) For the purposes of this section, the term "public document" shall mean any annual, biennial, regular or special report or publication of which at least 500 copies are printed for distribution by mail to the general public.

(c) For the purposes of this section, the term "agency" shall mean and include, as the context may require, State department, institution, commission, committee, board, division, bureau, officer or official; provided, however, the provisions of this act shall not apply to the General Assembly of North Carolina.

Sec. 2. This act shall become effective on July 1, 1976.

In the General Assembly read three times and ratified, this the 22nd day of May, 1975.

H. B. 516 CHAPTER 363

AN ACT TO MAKE CHAPTER 895 OF THE 1967 SESSION LAWS APPLICABLE TO FORSYTH COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The provisions of Chapter 895 of the 1967 Session Laws shall be applicable to Forsyth County and the Board of Commissioners of Forsyth County. Wherever the words "City of Winston-Salem", "Mayor or City Manager", or "City" appear in Section 1 of said act, the act is hereby amended by adding the words immediately thereafter "Forsyth County", "Chairman or County Manager", and "County" respectively so as to make said act applicable to Forsyth County.

Sec. 2. Section 2 of Chapter 895 of the 1967 Session Laws is amended by adding the words "and Forsyth County" after the words "the City of Winston-Salem" and adding the words "and County" after the word "City" in the first sentence thereof, and adding the words "or Forsyth County" after the words "City of Winston-Salem" in the second sentence.

Sec. 3. Nothing in this act shall be construed as removing from Forsyth County the limitations upon its power of eminent domain contained in G.S. 153A-160(c).

Sec. 4. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of May, 1975.

H. B. 523 **CHAPTER 364**

AN ACT TO DEFINE THE CORPORATE BOUNDARIES OF THE TOWN OF EAST ARCADIA.

The General Assembly of North Carolina enacts:

Section 1. Chapter 1107 of the Session Laws passed by the 1973 General Assembly at its Second Session 1974, ratified April 3, 1974, is amended by rewriting the description of the corporate boundaries of the Town of East Arcadia. As amended, the corporate boundaries of the Town of East Arcadia shall be as follows until altered in accordance with law:

"Beginning at a point on the East Arcadia road, said road being Public Road Number 1741, at a point where the road crosses the Bladen and Columbus County line and runs thence with road number 1741 35 chains to a point where Seaboard Coast Line Railroad crosses said road; thence with Seaboard Coast Line Railroad in a southeasterly direction 17 chains to a point in said Seaboard Coast Line Railroad thence in a northeasterly direction with W. J. Herring's line and L. M. Rawls' line 19 chains to Sanford Bowen's line; thence with Sanford Bowen and L. M. Rawls' line in a northwest direction 10.50 chains to state Road 1741; thence with SR 1741 in a northeasterly direction 33 chains to a point in SR 1741; thence with Turkey Pen Branch in a northwest direction 38 chains to SR 1743; thence with SR 1743 56 chains to Horse Pen Branch; thence with Horse Pen Branch in a Northeasterly direction 43 chains to a point in said State Road Number 1742; thence with SR 1742 48 chains in a Southeasterly direction; thence with SR 1741 in a Northeasterly direction 44 chains to SR 1739; thence with SR 1739 in an Easterly direction 37 chains to a point in said Road, Victor R. Brown's Boundary Line: thence with Victor R. Brown's Western Boundary Line to Homer Daniel, Jr.'s Boundary Line, and thence with Homer Daniel, Jr.'s most Western Boundary Line 14 chains to North Carolina Highway #87; thence with North Carolina Highway #87 in a Southeast Direction 13 chains to SR 1736; thence with SR 1736 in a Southwest Direction 50 chains to the Bladen and Columbus County Line; thence with the Bladen and Columbus County Line in a Southwest Direction 28 chains to Carroll Johnson's Eastern Boundary Line; thence with Carroll Johnson's most Eastern Boundary 106 chains to and with Carroll Johnson's Boundaries to said Road SR Number 1737; thence with SR 1737 and being Carroll Johnson's most Southernly Boundary Line 44 chains to Bladen and Columbus County Line; thence with Bladen and Columbus County Line in a Southwestern Direction 138 chains to SR 1772; thence with Bladen and Columbus County Line in a Northwest Direction 44 chains to the point of beginning.

Also including the properties of Willie A. Dixon located on a North side of North Carolina Highway #87, and this being 20 chains in a Southeast Direction from said point of SR Number 1736 and North Carolina Highway #87 and runs thence from North Carolina Highway #87 in a Northeast Direction 11 chains; thence in a Southeast Direction 7 chains; thence in a Southwest Direction 10 chains to Highway #87; thence with Highway #87 in a Northwest Direction 7 chains to beginning."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of May, 1975.

H. B. 566 **CHAPTER 365**

AN ACT TO AMEND THE CHARTER OF THE CITY OF ROCKY MOUNT.

The General Assembly of North Carolina enacts:

Section 1. Chapter 938, Session Laws of 1963, constituting the revised Charter of the City of Rocky Mount is hereby amended by amending Chapter IX, Article 1, Section 360, to read as follows:

"Sec. 360. *Condemnation procedure; interest acquired.*—(a) The city shall possess the power of eminent domain, and may acquire, either by purchase, gift, devise or condemnation, any land, right of access, right-of-way, water right, privilege, easement, or any other interest in or relating to land, water or improvements thereon, either within or beyond the city limits, for the furtherance of any power granted the city herein or any other lawful use or purpose, including but not limited to those uses and purposes specified in Article 1 of Chapter 40, Article 3 of Chapter 40, Article 3A of Chapter 136 and Article 11 of Chapter 160A of the North Carolina General Statutes.

Unless otherwise expressly provided in the condemnation resolution or petition, condemnation shall vest in the city an estate in fee simple absolute to the interest acquired.

(b) In exercising the power of eminent domain, the city may in its discretion use the condemnation procedure hereinafter provided in this Article or the procedure provided in Article 2 of Chapter 40 of the North Carolina General Statutes, or the procedure provided in Article 11 of Chapter 160A of the North Carolina General Statutes, or the procedure provided in Article 9 of Chapter 136 of the North Carolina General Statutes. Whenever the city shall choose to use the condemnation procedure prescribed in Article 9 of Chapter 136, the provisions of Article 9 shall be read and applied as if the words 'Board of Transportation' were 'City of Rocky Mount', as if the words 'Chairman' and 'Director of Highways' were 'City Manager' and as if the procedures therein were applicable to the exercise of the eminent domain power for any of the aforementioned furtherances, uses or purposes of the city instead of the highway purpose of the Board of Transportation.

(c) Water rights or other interests relating to water may be condemned under the procedures set forth in this Article for the condemnation of land and interest therein.

(d) If the city desires to condemn properties owned by a public service corporation as defined in G.S. 160A-243(c) then the provisions of this section shall not apply with regard to that condemnation unless the exercise of such eminent domain is either consented to by the owner of the property to be acquired by the city or, otherwise, first adjudicated after notice and a hearing that such acquisition will not prevent or unreasonably impair the continued devotion to the public use of such properties and their operation by such public service corporation."

Sec. 2. Section 362 of Chapter IX, Article 1, is hereby amended by designating the existing paragraph as subparagraph (a) and adding a new subparagraph (b) to read as follows:

"(b) In any case where such owner of the land proposed to be condemned or of any interest therein is a minor, an insane person, or otherwise under any disability, the copy of said resolution shall be served upon his guardian, and

service upon such guardian shall be sufficient without service upon the minor, insane person, or person under disability. Thereafter such guardian may exercise, on behalf of his ward, with respect to such condemnation proceeding all the powers and duties conferred upon such person as owner."

Sec. 3. Chapter IX, Article 1, is further amended by deleting Section 375.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of May, 1975.

H. B. 569 CHAPTER 366

AN ACT TO PROMOTE PUBLIC SAFETY BY REQUIRING HOUSE MOVERS TO BE LICENSED.

Whereas, the house movers of North Carolina offer a valuable and needed service in the moving of houses, historical buildings, and other extraordinary objects wider than 12 feet with the exception of road construction and mining machinery; and

Whereas, the State of North Carolina encourages preservation of historical buildings and other historical landmarks; and

Whereas, the profession of house moving is an honorable and exacting profession requiring expert knowledge in the process of moving unusual loads in a safe manner; and

Whereas, the house movers seek to upgrade their profession by setting professional standards for moving houses and other unusual loads in a manner ensuring safety for the public and to the fixed objects along the highways of North Carolina; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Chapter 136 of the General Statutes is hereby amended by adding new Article 2C to read as follows:

"ARTICLE 2C.

"§ 136-44.30. *Creation of licensing board; membership; meetings; compensation.*—There is hereby created a House Movers Licensing Board consisting of seven members. The Governor shall appoint one member from the house moving industry, one member from the Department of Transportation and one member from the Highway Patrol. The Speaker of the House and the Lieutenant Governor shall each appoint two members. The board shall elect one of its members as chairman and may elect a secretary, who need not be a member of the board. The board shall meet at the call of the chairman or upon the request of a majority of its members. The members shall receive as compensation for their services per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

"§ 136-44.31. *Powers of board.*—The House Movers Licensing Board shall have the following powers:

(a) To promulgate such rules and regulations consistent with this Article covering applications for licenses and processing and issuing licenses, and such other matters reasonably necessary to enable the board to administer this Article, and promote the public safety in the moving of houses on State highways and roads.

(b) To set minimum safety standards which must be met by persons engaged in the business of moving houses.

(c) To perform such other activities as may be necessary to effectuate this Article.

"§ 136-44.32. *Issuance of licenses.*—No person shall engage in the business of moving houses on a State highway or road unless such person has obtained a license under the rules and regulations of the board and under the provisions of this Article. No person shall be licensed until he furnishes the board with proof that he has and will maintain personal injury liability insurance with limits of at least one hundred thousand dollars/three hundred thousand dollars ($100,000/$300,000); property damage insurance of at least fifty thousand dollars ($50,000); and indemnification bond in a minimum amount of fifty thousand dollars ($50,000). A license issued hereunder shall be effective for a period of one year from date of issuance. An annual license fee in the amount of one hundred dollars ($100.00) shall be paid to the board. All fees collected pursuant to this section shall be expended, under the direction of the board, for the purposes of defraying the expenses of administering this Article.

"§ 136-44.33. *Definition.*—'Person' as used in this Article shall mean an individual, corporation, partnership, association or any other business entity. The word 'house' as used in this Article shall mean a dwelling, building or other structure in excess of 14 feet in width. This Article shall not apply to a farmer moving his own buildings, road construction machinery, mining machinery, nor farm machinery.

"§ 136-44.34. *Penalties.*—Any person violating the provisions of this Article shall be guilty of a misdemeanor and, upon conviction shall be punished by a fine of not more than fifty dollars ($50.00), or imprisonment for not more than 30 days."

Sec. 2. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 22nd day of May, 1975.

H. B. 670 CHAPTER 367

AN ACT TO AUTHORIZE THE TOWN OF SOUTHERN PINES TO AFFIX A LIEN AGAINST RESIDENTIAL PROPERTY UPON PETITION OF THE OWNER FOR IMPROVEMENTS IN ASSOCIATION WITH THE TOWN'S COMMUNITY DEVELOPMENT PROGRAM.

The General Assembly of North Carolina enacts:

Section 1. In addition to any other powers and authority heretofore granted by general law or local act the Town Council of the Town of Southern Pines is hereby authorized and empowered to make improvements to residential property, including connection to water and sewer lines, and to affix a lien to the benefitting property for the cost of making such improvements and providing such services, upon receipt of a petition from the property owner or owners, and determination that the proposed work is in compliance with federal, State and local rules and regulations pertaining to Community Development Block Grants.

Sec. 2. The authority granted by this section shall be exercised only upon petition by the owner or owners of such benefitting property. Such petition shall be upon a form approved by the town council and shall contain:

a. A description of the improvements and/or service or services requested, and

b. A description of the property to be improved or served, and the anticipated cost of furnishing such services, and

c. An acknowledgement by the owner or owners that they understand that the cost of such improvements will become a lien against their property, and

d. Such other information as may be required by the town council.

Sec. 3. The town council may approve or deny such petition submitted. If any such petition shall be approved by the town council, the town clerk shall mark upon the face of such petition such words as shall indicate such approval by the town council and the date and time of the approval.

Sec. 4. From and after approval of any petition submitted pursuant to this section, a lien in favor of the town shall exist upon the property described in such petition for the amount stated in such petition as the anticipated cost of furnishing such improvements and services. Such liens shall be inferior to all prior and subsequent federal, State, county and municipal tax liens of record, but superior to all others. This lien may be collected by foreclosure in the same manner as provided by law for the foreclosure of liens for special assessments. Any foreclosure proceeding instituted pursuant to this section shall be deemed a proceeding *in rem* and no mistake or omission as to the name of any owner or person interested in any lot or parcel of land affected thereby shall be regarded as a substantial mistake or omission. No change of ownership shall affect any lien created pursuant to this section.

Sec. 5. The amount of the lien affixed pursuant to the act for the purpose of improving residential dwellings shall not exceed the valuation for ad valorem tax purposes of the land and improvements which are benefitted.

Sec. 6. The owner or owners submitting such a petition to the town council shall also have the option of removing the lien from their property by either a lump sum payment or completion of an installment payment plan of the cost of the improvements and services.

Sec. 7. If the town council shall determine that the actual cost of furnishing the improvements and services provided for in any approved petition shall have exceeded the amount originally stated in such petition as the anticipated cost of providing such improvements or services, the town council may, by resolution, amend the approved petition to set forth the correct costs. The town council's determination of such actual costs shall be deemed conclusive. Upon amendment as provided by this subsection, the petition shall be deemed effective as if originally submitted with the amended costs set forth therein. A copy of any resolution enacted pursuant to this subsection shall be mailed or personally delivered to the owner or owners of such property at their last known address.

Sec. 8. Any petition approved by the town council and any amendment thereof shall be filed in the office of the town clerk. The town clerk shall maintain a record of such approved petitions and amendments thereof and such records shall be available to public view during regular business hours.

Sec. 9. If the actual cost of providing the services requested in any approved petition shall be less than the costs set forth in such petition as anticipated costs, the town council may, by resolution, amend the approved petition to set forth the correct costs under the same procedures as outlined in Section 7 above. Provided, however, any anticipated costs set forth in the approved petition which shall have been determined under any schedule of charges approved by the town council shall, for the purpose of this section, be deemed the actual costs of providing such service.

Sec. 10. All laws and clauses of laws in conflict herewith are hereby repealed.

Sec. 11. This act shall apply only to the Town of Southern Pines and is supplementary to all other powers and authority possessed by the Town of Southern Pines and is not in substitution thereof.

Sec. 12. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 22nd day of May, 1975.

H. B. 734 CHAPTER 368

AN ACT CREATING THE ASHEVILLE-BUNCOMBE LOCAL GOVERNMENT STUDY COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Creation and Purposes. There is hereby created the Asheville-Buncombe Local Government Study Commission. The commission shall have the duty:

(a) To study the powers, duties, functions, responsibilities and organizational structures and arrangements of all local governmental units and agencies in Buncombe County;

(b) To give full consideration, based upon feasibility studies conducted by a professionally qualified staff or consultants, to the following:

1. The creation of any new units of local government in the county;

2. Continuation of the present local government structure in the county, with the possible addition of any urban service districts;

3. The expansion of the corporate limits of municipalities in the county;

4. Any other possible local governmental structures or arrangements in the county.

(c) To prepare a comprehensive report upon its studies, findings, and recommendations for the future structure of local government in Buncombe County;

(d) To conduct public hearings within the county upon its report;

(e) To prepare drafts of any proposed legislation to implement its recommendations.

Sec. 2. Membership. The Asheville-Buncombe Local Government Study Commission shall be constituted as follows:

(a) A chairman, who shall be appointed jointly by the Mayor of the City of Asheville and the Chairman of the Board of Commissioners of Buncombe County; provided, in the event they fail to agree upon a joint appointment of a chairman within 10 days after the appointment of the commission membership,

then the members of the commission shall meet and elect a chairman; the chairman shall be selected from among the membership of the commission;

(b) One member each appointed by the respective governing boards of the Towns of Biltmore Forest, Black Mountain, Montreat, Weaverville, and Woodfin;

(c) Nine members appointed by the City Council of the City of Asheville, who shall be residents of the City of Asheville;

(d) Eleven members all of whom shall be residents of the unincorporated area of Buncombe County, appointed as follows:

(1) Five members appointed by the Board of Commissioners of Buncombe County.

(2) Six members appointed by the members of the North Carolina General Assembly who are residents of Buncombe County, acting jointly.

(e) The Mayor of the City of Asheville and the Chairman of the Board of Commissioners of Buncombe County, who shall serve as ex officio members of the commission without the power to vote.

(f) No person shall be excluded from membership on the commission by reason of holding any public elective or public appointive office.

(g) All appointments to the commission shall be made by the appointing authorities and certified in writing to the Clerk of Superior Court of Buncombe County within 60 days after the ratification of this act. In the event any appointments by the city council or board of county commissioners or by any town governing board are not made by such date, they shall be made by the members of the North Carolina General Assembly who are residents of Buncombe County acting jointly. In the event the appointments by members of the North Carolina General Assembly are not made by August 1, 1975, they shall be made by the board of county commissioners. In the event of a vacancy in the commission's membership, the same shall be filled by the body or authority which appointed the person who caused the vacancy.

Sec. 3. Compensation. The members of the commission shall not receive any compensation for their services, but shall be reimbursed for their actual and necessary expenses incurred in performance of their official duties as members. Actual and necessary expenses shall be presumed to be ten dollars ($10.00) for each meeting attended, unless a member shall submit evidence demonstrating higher expenses.

Sec. 4. Organization. Within 90 days after ratification of this act, the chairman of the commission (or the Clerk of Superior Court of Buncombe County in the event no chairman has been selected as provided in Section 2(a) above) shall call a meeting of the commission for the purpose of organization. At this organizational meeting, the commission shall elect from among its members a vice-chairman, a secretary, a treasurer, and such other officers as the commission may determine, all of whom shall serve at the will of the commission. Vacancies in any office elected under this section shall be filled by the commission from among its members.

For the purpose of carrying out its duties, the commission shall have the authority to appoint such special committees, with such membership as it desires.

The commission is empowered to adopt rules of procedure with respect to the conduct of its affairs as it may deem appropriate.

Sec. 5. Meetings. The commission shall hold regular meetings at places and dates to be determined by the commission, but in any event, the commission shall meet at least once monthly until its work is completed. Special meetings may be called by the chairman upon his own initiative and must be called by him if requested by three or more members of the commission. The chairman shall notify in writing all commission members of any special meeting at least three days prior to any such meeting. Meetings may be held inside or outside Buncombe County, and shall be open to the public.

Sec. 6. Staff. The commission is empowered to employ personnel to assist it and to contract with State agencies, persons, firms or corporations for special and technical services and studies.

Sec. 7. Financing. (a) The commission shall prepare an annual budget and request appropriations based thereon from Buncombe County. All expenditures shall be in conformity with the budget; however, the budget may be amended from time to time as the commission finds necessary. It is intended that Buncombe County shall bear the expenses of the commission, and the board of county commissioners shall appropriate funds not in excess of fifty thousand dollars ($50,000) for the commission's work. The commission is also authorized to accept gifts from any person, firm or corporation, upon terms acceptable to the commission. Appropriations to the commission from the county may be made from any funds available to the county, and an appropriation to this commission is hereby declared to be for a public purpose.

(b) The treasurer of the commission shall have authority to collect, deposit, and disburse all funds of the commission. All monies received by the commission shall be deposited in a separate account, shall be earmarked for use by the commission, and shall be paid out only on checks signed by the treasurer or the commission's accountant and countersigned by either the chairman or by another member designated by the commission. The commission may require the treasurer, the commission's accountant, the chairman or the designated member or any two or more of them to deposit a surety bond to be paid for by the commission on terms set by the commission.

(c) The commission may contract with either Buncombe County, the City of Asheville, or private persons or firms for provision of accounting services. Generally accepted accounting principles shall be followed.

Sec. 8. Cooperation of Units. Buncombe County, the City of Asheville, and the Towns of Biltmore Forest, Black Mountain, Montreat, Weaverville and Woodfin, and all other local governmental units or agencies in Buncombe County shall make available to the commission any records, reports, or information the commission requests; and they are hereby authorized to assist the commission through gifts of necessary supplies and equipment, and temporary loans of personnel.

Sec. 9. Hearings. (a) The commission shall complete its study and prepare a report of its findings and recommendations not later than September 1, 1976. Upon completion of its study and report, the commission shall meet with the governing bodies of Buncombe County, the City of Asheville, and the Towns of Biltmore Forest, Black Mountain, Montreat, Weaverville and Woodfin, either separately or jointly, in order to present its report to the governing bodies. After making any changes deemed desirable as a result of the above meetings, the commission shall hold one or more public hearings. Notice of public hearings shall (1) fix the date, time and place of the hearing or

hearings; (2) state the purpose of the hearings; and (3) state that the commission report will be available for public inspection in the office of the Chairman of the Board of Commissioners of Buncombe County and in the offices of the clerk of each municipality in the county at least 14 days prior to the date of the first hearing. Such notice shall be published daily in a newspaper of county-wide circulation for two successive weeks prior to the first hearing.

(b) At least 14 days prior to the date of the first hearing, the commission shall deposit in the office of the Chairman of the Board of Commissioners of Buncombe County and in the offices of the clerks of Asheville, Biltmore Forest, Black Mountain, Montreat, Weaverville and Woodfin, copies of its report and recommendations. These copies shall be available for public inspection. In addition, the commission shall have authority to publish the report, or summary thereof, for such public distribution as it deems desirable, and to take such further steps it deems desirable in order to acquaint the public generally with its recommendations.

Sec. 10. (a) The authority of municipalities in Buncombe County to annex territory pursuant to Parts 2 and 3 of Article 4A of Chapter 160A of the General Statutes is hereby suspended until February 1, 1977.

(b) The authority of the Municipal Board of Control to incorporate areas in Buncombe County pursuant to Article 1A of Chapter 160A of the General Statutes is hereby suspended until February 1, 1977.

Sec. 11. If any provision of this act is held invalid, such invalidity shall not affect other provisions of the act which can be given effect without the invalid provision, and to this end the provisions of this act are declared to be severable.

Sec. 12. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of May, 1975.

H. B. 873 CHAPTER 369

AN ACT TO PROVIDE FOR THE COMPENSATION OF MEMBERS OF THE EDGECOMBE COUNTY BOARD OF EDUCATION AND THE TARBORO CITY BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. The Edgecombe County Board of Commissioners is hereby authorized to fix the compensation, mileage and allowances for each member of the Edgecombe County Board of Education and for each member of the Tarboro City Board of Education.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of May, 1975.

S. B. 18 **CHAPTER 370**

AN ACT TO AUTHORIZE ABSENTEE BALLOTS IN MUNICIPAL ELECTIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-302 is hereby rewritten to read as follows:

"§ 163-302. *Absentee voting.*—(a) In any municipal election, including a primary, or general election or referendum, conducted by the county board of elections, absentee voting may, upon resolution of the municipal governing body, be permitted. This subsection shall not apply if the election is conducted by a municipal board of elections; nor shall absentee voting be permitted in any special district election.

(b) The provisions of Articles 20 and 21 of this Chapter shall apply to absentee voting permitted by this section, except that the State Board of Elections may provide a later date for the first meeting under G.S. 163-230 and the first day for voting under G.S. 163-227.2(b)."

Sec. 2. G.S. 163-291(2) and 163-294.2(c) are amended by striking the word "fourth" and inserting in lieu thereof the word "fifth".

Sec. 3. Chapter 1169 of the Session Laws of 1973 is repealed.

Sec. 4. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of May, 1975.

S. B. 117 **CHAPTER 371**

AN ACT TO BE KNOWN AS THE RENUNCIATION OF TRANSFERS BY WILL, INTESTACY, APPOINTMENT OR INSURANCE CONTRACT ACT.

The General Assembly of North Carolina enacts:

Section 1. The General Statutes of North Carolina are hereby amended by the addition of a new Chapter 31B to read as follows:

"Chapter 31B.

"§ 31B-1. *Right to renounce succession.*—(a) A person who succeeds to a property interest as:

(1) heir, or
(2) next of kin, or
(3) devisee, or
(4) legatee, or
(5) beneficiary of a life insurance policy who did not possess the incidents of ownership under the policy at the time of death of the insured, or
(6) person succeeding to a renounced interest, or
(7) beneficiary under a testamentary trust or under an inter-vivos trust which takes under a will, or
(8) appointee under a power of appointment exercised by a testamentary instrument, or
(9) the duly authorized or appointed guardian with the prior or subsequent

approval by the clerk of superior court, or by the resident judge of the superior court of any of the above, or

(10) the personal representative appointed under Chapter 28A of any of the above,

or the attorney in fact of any of the above may renounce in whole or in part the right of succession to any property or interest therein, including a future interest, by filing a written instrument under the provisions of this Chapter. Provided, however, there shall be no right of partial renunciation if the decedent or donee of the power expressly so provided in the instrument creating the interest.

(b) In no event shall the persons who succeed to the renounced interest receive from the renouncement a greater share than the renouncer would have received.

(c) The instrument shall (1) describe the property or interest renounced, (2) declare the renunciation and extent thereof, (3) be signed and acknowledged by the person authorized to renounce.

"§ 31B-2. *Time and place of filing.*—(a) An instrument renouncing a present interest shall be filed not later than seven months after the death of the decedent or the donee of the power.

(b) An instrument renouncing a future interest shall be filed not later than six months after the event by which the taker of the property or interest is finally ascertained and his interest indefeasibly vested and he is entitled to possession.

(c) The renunciation shall be filed with the clerk of court of the county in which proceedings have been commenced for the administration of the estate of the deceased owner or deceased donee of the power or, if they have not been commenced, in which they could be commenced. Every renunciation provided for in this subsection shall be recorded and cross-indexed by the clerk in a record entitled 'Renunciation'. The record of renunciation shall contain:

(1) The name of the renouncer;

(2) The name of the estate affected by the renunciation;

(3) The date of the death of the decedent or donee of the power and the date of renunciation.

A copy of the renunciation shall be delivered in person or mailed by registered or certified mail to any personal representative, or other fiduciary of the decedent or donee of the power. If the property interest renounced includes any proceeds of a life insurance policy being renounced pursuant to G.S. 31B-1(a)(5) the person renouncing shall mail, by registered or certified mail, a copy of the renunciation to the insurance company issuing the policy.

(d) If real property or an interest therein is renounced, a copy of the renunciation shall also be filed for recording in the office of the register of deeds of all counties wherein any part of the interest renounced is situated. The renunciation shall be indexed in the grantor's index under (1) the name of the deceased owner or donee of the power, and (2) the name of the person renouncing. The renunciation of an interest, or a part thereof, in real property shall not be effective to renounce such interest until a copy of the renunciation is filed for recording in the office of the register of deeds in the county wherein such interest or part thereof is situated.

"§ 31B-3. *Effect of renunciation.*—Unless the decedent or donee of the power has otherwise provided in the instrument creating the interest, the property or interest renounced devolves as if the renouncer had predeceased the decedent or,

if the renouncer is designated to take under a power of appointment exercised by a testamentary instrument, as if the renouncer had predeceased the donee of the power. A future interest that takes effect in possession or enjoyment after the termination of the estate or interest renounced takes effect as if the renouncer had predeceased the decedent or the donee of the power. A renunciation relates back for all purposes to the date of the death of the decedent or the donee of the power.

"§ 31B-4. *Waiver and bar.*—(a) The right to renounce property or an interest therein is barred by

(1) an assignment, conveyance, encumbrance, pledge, or transfer of the property or interest, or a contract therefor by the person authorized to renounce,

(2) a written waiver of the right to renounce,

(3) an acceptance of the property or interest or benefit thereunder, or

(4) a sale of the property or interest under judicial sale made before the renunciation is effected.

(b) The renunciation or the written waiver of the right to renounce is binding upon the renouncer or person waiving and all persons claiming through or under him.

"§ 31B-5. *Exclusiveness of remedy.*—This act does not abridge the right of a person to waive, release, disclaim or renounce property or an interest therein under any other statute or as otherwise provided by law.

"§ 31B-6. *Application.*—A present interest in property existing on the effective date of this act as to which the time for filing a renunciation under this act has not expired may be renounced within six months after the effective date of this act. A future interest in property existing on the effective date of this act as to which the time for filing a renunciation under this act has not expired may be renounced within six months after the effective date of this act or within six months after the future interest has become indefeasibly vested and the taker is entitled to possession, whichever is later.

"§ 31B-7. *Short title.*—This Chapter may be cited as the Renunciation of Transfers by Will, Intestacy, Appointment or Insurance Contract Act."

Sec. 2. G.S. 29-10 is hereby amended to read as follows:

"§ 29-10. *Renunciation.*—Renunciation of an intestate share shall be as provided for in Chapter 31B of the General Statutes."

Sec. 3. G.S. 31-42 is hereby amended by adding a new subsection (d) to read as follows:

"(d) Renunciation of a devise or legacy shall be as provided for in Chapter 31B of the General Statutes."

Sec. 4. G.S. 28A-13-3(a) is hereby amended by adding a new subdivision (33) to read as follows:

"(33) To renounce in accordance with the provisions of Chapter 31B of the General Statutes."

Sec. 5. Chapter 58 of the General Statutes is hereby amended by adding a new section G.S. 58-205.2 to read as follows:

"§ 58-205.2. *Renunciation.*—A beneficiary of a life insurance policy who did not possess the incidents of ownership under the policy at the time of death of the insured may renounce as provided in Chapter 31B of the General Statutes."

Sec. 6. This act shall become effective on October 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of May, 1975.

S. B. 322 CHAPTER 372

AN ACT TO TRANSFER THE NORTH CAROLINA CRIMINAL JUSTICE TRAINING AND STANDARDS COUNCIL TO THE DEPARTMENT OF JUSTICE.

The General Assembly of North Carolina enacts:

Section 1. Article 6 of Chapter 143A of the General Statutes of North Carolina is hereby amended by adding a new section at the end thereof to read:

"§ 143A-55.1. *North Carolina Criminal Justice Training and Standards Council; transfer.*—The North Carolina Criminal Justice Training and Standards Council, as created by Chapter 17A of the General Statutes and laws of this State, is hereby transferred by a Type II transfer to the Department of Justice."

Sec. 2. G.S. 17A-6 is amended by rewriting subsection (8) to read as follows:

"(8) The Attorney General shall appoint a director from a list of three names recommended to him by the council. If, in the opinion of the Attorney General, none of the three persons recommended have the necessary qualifications for the position of director, the council shall submit another list of three names, from which the Attorney General shall appoint a director. The director shall be responsible to and shall serve at the pleasure of the Attorney General."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of May, 1975.

S. B. 362 CHAPTER 373

AN ACT TO AMEND G.S. 136-72 TO CLARIFY THE AUTHORITY FOR ESTABLISHING THE MAXIMUM SAFE LOAD CARRYING CAPACITY OF BRIDGES ON THE STATE HIGHWAY SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-72 as the same appears in Volume 3B of the 1974 Replacement Volume of the General Statutes of North Carolina is hereby rewritten to read as follows:

"§ 136-72. *Load limits for bridges; penalty for violations.*—The Board of Transportation shall have authority to determine the safe load carrying capacity for any and all bridges on highways on the State Highway System. It shall be unlawful for any person, firm, or corporation to drive, operate or tow on any bridge on the State Highway System any vehicle or said person, firm or corporation shall so drive, operate or tow a combination of vehicles with a gross weight exceeding the safe load carrying capacity established by the Board of Transportation and posted at each end of said bridge. Any person, firm, or corporation violating the provisions of this section shall be guilty of a misdemeanor."

Sec. 2. G.S. 20-118 as the same appears in the 1974 Cumulative Supplement to Volume 1C of the 1965 Replacement Volume of the General

Statutes of North Carolina is hereby amended by adding the following paragraph at the end thereof:

"Any vehicle or combination of vehicles operated on any highway on the State Highway System shall also be subject to the safe load carrying capacity for bridges as established and posted by the Board of Transportation pursuant to G.S. 136-72."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of May, 1975.

S. B. 483 CHAPTER 374

AN ACT TO AUTHORIZE THE SHERIFF TO ISSUE WEAPONS PERMITS INSTEAD OF THE CLERK OF SUPERIOR COURT.

The General Assembly of North Carolina enacts:

Section 1. Chapter 1073, Session Laws of 1959, is hereby amended by deleting from Section 4 thereof the word "Halifax".

Sec. 2. It is the intent and purpose of this act to transfer from the Clerk of Superior Court to the Sheriff of Halifax County the authority and duty to issue weapons permits as provided in Article 52A of Chapter 14 of the General Statutes of North Carolina.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of May, 1975.

S. B. 635 CHAPTER 375

AN ACT TO INCREASE THE NUMBER OF COUNTY COMMISSIONERS OF GASTON COUNTY, TO PROVIDE FOR STAGGERED TERMS FOR COUNTY COMMISSIONERS OF GASTON COUNTY, AND TO MAKE VARIOUS OTHER PROVISIONS RELATING TO THE GASTON COUNTY BOARD OF COMMISSIONERS.

The General Assembly of North Carolina enacts:

Section 1. At the general election to be held in the year 1976, there shall be elected an additional member of the Board of Commissioners of Gaston County, thereby increasing the number of said commissioners from six to seven, which seventh commissioner shall be from Gastonia Township and shall be elected for a term of four years.

Sec. 2. At the general election to be held in the year 1976, there shall be elected in the County of Gaston by the duly qualified voters thereof, four members of the board of county commissioners, with one commissioner from Gastonia Township, one commissioner from Cherryville Township, one commissioner from Crowders Mountain Township, and one commissioner from Southpoint Township. These four members shall compose one class, whose term of office shall commence on the first Monday in December, 1976, and expire at the end of four years thereafter, or on the first Monday in December, 1980. There shall be another class, composed of the three commissioners whose terms began on December 1, 1974, being one commissioner from Dallas Township, one commissioner from Gastonia Township and one commissioner from Riverbend Township, whose terms of office will expire on the first Monday in December,

1978. Upon the expiration of the term of office of each class of commissioners, their successors shall be elected to hold office four years and until their successors are elected and qualified.

Sec. 3. After 1976 there shall be seven county commissioners for Gaston County, two of whom must be residents of Gastonia Township and one each from the townships of Dallas, Riverbend, Southpoint, Crowders Mountain and Cherryville.

Sec. 4. The Board of Commissioners of Gaston County shall hold a regular meeting at the courthouse in said county on the first Monday in each month, and may adjourn any regular meeting from day to day or to any day in the month until the business before the board is disposed of. Special meetings may be held at other times for the more convenient dispatch of business, at the call of the chairman, on the written request of one member of the board, but public notice of the time and place of such called meeting shall be posted at the courthouse door for not less than three days prior thereto.

Sec. 5. No meeting or meetings of the Board of County Commissioners of Gaston County heretofore held, and no acts done by such board of commissioners in such meeting or meetings shall be invalid because of any defect in the manner of calling or publishing notice of such meeting or meetings or because such meeting or meetings were held on a day or days other than those theretofore prescribed by law for such meetings; and all acts heretofore performed at any meeting or meetings of the Board of County Commissioners of Gaston County are hereby declared valid in all respects.

Sec. 6. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 7. This act shall apply only to the County of Gaston.

Sec. 8. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of May, 1975.

S. B. 685

CHAPTER 376

AN ACT TO PROVIDE FOR THE ELECTION AND TERMS OF OFFICE OF THE BOARD OF EDUCATION OF CRAVEN COUNTY, AND TO FIX THE DISTRICTS FOR THE BOARD.

The General Assembly of North Carolina enacts:

Section 1. Chapter 887 of the 1967 Session Laws is hereby repealed.

Sec. 2. The Board of Education of Craven County shall consist of seven members who shall be nominated and elected, as hereinafter provided, from each of the following districts:

District No. 1, consisting of Township #1, one member;
District No. 2, consisting of Township #2, one member;
District No. 3, consisting of Township #3, one member;
District No. 4, consisting of Township #5 and Township #6, two members;
District No. 5, consisting of Township #7, one member;
District No. 6, consisting of Township #9 and a portion of Township #8, lying west of Washington Forks, one member.

Each member shall reside in the district he represents.

Sec. 3. Present board members shall continue to hold office until their terms of office expire, except as hereinafter provided: The term of James W. Smith of District 3 shall expire on December 1, 1978. The term of Elmer Prentice Riggs of District 3 shall expire on December 1, 1978. Thereafter, beginning with the county general election of 1978, District 3 shall be represented by one school board member. The term of Roger Bell of District 4 shall expire on December 1, 1978.

Sec. 4. The county executive committee of the political party of the majority of the present board members shall appoint one school board member from Township #5 or Township #6 to represent District 4. The term of the member so appointed shall commence on July 1, 1975, and shall expire on December 1, 1976. Thereafter, the seat so created and so occupied shall be filled by any person duly elected in the county general election of 1976, to serve for a term of four years, to commence on December 1, 1976.

Sec. 5. Beginning with the county primary of 1976, and quadrennially thereafter, there shall be nominated one candidate for each political party from Districts No. 2, 4, and 6, who shall serve for a term of four years. Beginning with the county primary of 1978, there shall be nominated one candidate for each political party from Districts No. 1, 3, 4, and 5, who shall serve for a term of four years.

The candidate of each political party receiving the majority of votes cast by the qualified voters of the district in which he is running shall be declared the nominee of his party and his name shall appear on the ballot for the general election, as provided by law.

Sec. 6. In the biennial county general election there shall be elected by the qualified voters of the entire county members of the Craven County Board of Education to take the place of the members whose terms next expire. The candidate receiving the highest number of votes cast for candidates in his district shall be elected for a term of four years and until his successor is elected and qualified.

Sec. 7. The candidates elected to the Craven County Board of Education shall qualify and take office on the first Monday in December of the year in which elected.

Vacancies occurring in the Board of Education for any reason shall be filled for the unexpired term by action of the County Executive Committee of the political party of the member causing the vacancy.

Sec. 8. The Chairman of the Board of Education of Craven County shall preside at the meetings of said board, and shall be entitled to cast a vote on each issue presented to the board in regular or special session; and, in the event of the absence or sickness of the chairman, the board may appoint one of its members to act as vice-chairman and to exercise all the duties of the chairman.

Sec. 9. The Craven County Board of Election shall hold and conduct the primary and general election for members of the Craven County Board of Education in accordance with the provisions of Chapter 163 of the General Statutes.

Sec. 10. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of May, 1975.

H. B. 547 **CHAPTER 377**

AN ACT TO ALLOW THE SHERIFF OF LEE COUNTY A FEE OF TWO DOLLARS ($2.00) FOR WEAPONS PERMITS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-404 as the same appears in the 1969 Replacement Volume 1B of the General Statutes is hereby amended so that the last sentence thereof shall read:

"The sheriff shall charge for his services upon issuing such license or permit a fee of two dollars ($2.00)."

Sec. 2. This act shall apply only to Lee County.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of May, 1975.

H. B. 730 **CHAPTER 378**

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF SPINDALE AND TO REPEAL PRIOR CHARTER ACTS.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Spindale is hereby revised and consolidated to read as follows:

"THE CHARTER OF THE TOWN OF SPINDALE.

"ARTICLE I. Incorporation and Corporate Powers.

"Sec. 1.1. *Incorporation and general powers.* The Town of Spindale shall continue to be a body politic and corporate under the name of the 'Town of Spindale', and shall continue to be vested with all property and rights which now belong to the town; shall have perpetual succession; may have a common seal and alter and renew the same at pleasure; may sue and be sued; may contract, may acquire and hold all such property, real and personal, as may be devised, bequeathed, sold or in any manner conveyed or dedicated to it, or otherwise acquired by it, and may from time to time hold, invest, sell, or dispose of the same; and shall have and may exercise in conformity with this Charter all municipal powers, functions, rights, privileges, and immunities of every name and nature.

"Sec. 1.2. *Exercise of powers.* All powers, functions, rights, privileges, and immunities of the town, its officers, agencies, or employees, shall be carried into execution as provided by the Charter of the town, or, if the Charter makes no provision, as provided by ordinance or resolution of the board of commissioners and as provided by the general laws of North Carolina pertaining to municipal corporations.

"Sec. 1.3. *Enumerated powers not exclusive.* The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive but, in addition to the powers enumerated herein or implied hereby, or those appropriate to the exercise of such powers, the Town of Spindale shall have and may exercise all other powers which, under the Constitution and laws of North Carolina, now are, or hereafter may be, granted to municipal corporations.

"ARTICLE II. Corporate Boundaries.

"Sec. 2.1. *Corporate limits.* BEGINNING on a concrete marker being located at the point where the right-of-way of the Southern Railroad intersects the

Western City Limits line of the present Town of Spindale City Limits: runs thence with the Eastern edge of the right-of-way of Southern Railroad in a Northerly direction 4100 feet to the point in the center of Sparks Street; runs thence with the center of Sparks Street South 85 East 32 feet, North 5 West 200 feet, North 9 West 50 feet, North 12 East 25 feet, North 34 East 25 feet, North 53 East 25 feet, North 66 East 25 feet, North 75 East 25 feet, North 83 East 50 feet and North 87 East 25 feet; thence continuing with the center of said street, North 87 East 1200 feet and due East 120 feet to a concrete marker at a fence; runs thence with the fence, South 74 East 1160 feet to a point in the center of Reynolds Creek; runs thence with the Center of Reynold's Creek in a Northeasterly direction 5920 feet to a point in the center of the Whiteside Road; runs thence with the center of the Whiteside Road, in an Easterly direction 496 feet to a point in the center of the bridge on the Whiteside Road crossing Holland's Creek; runs thence with Holland's Creek in a Southeasterly direction 2985 feet to a point in the center of the bridge over Holland's Creek on the Old Ball Park Road, also known as State Road Number 1547; thence continuing with Holland's Creek in an Easterly direction 4197 feet to a point in the center of Holland's Creek, said point being located at a point where said Holland's Creek is intersected by the center of the Duke Power High Transmission Line; runs thence with the center of said Transmission Line South 12 East 1200 feet to a steel tower on said power line the same lying just South of the road which leads from the Ledbetter Mill Road to the Spindale Disposal Plant; thence continuing with the Duke Power right-of-way, South 25 East 2450 feet to an iron pin in the center of an unnumbered State Road the same being the road which leads from Ledbetter Mill Road to the Bristol-Martin Subdivision; thence with the center of said road, South 59 West 760 feet to a point in the said road, same being evidenced by an iron pin offset in the South side of said road, same being the corner of the Martin-Bristol property; runs thence South 12-1/2 East 4600 feet to an iron pin at the old white oak corner of the J. C. Cowan property; runs thence with the wire fence South 4 West 1350 feet to a point in the center of U. S. Highway Number 74, the same being located at the point where the center of Highway Number 74 is intersected by the road which leads from the Rutherford County Board of Education and the North Carolina Armory; runs thence with the center of said road, South 4 West 590 feet to a point in the center of said road; runs thence from said point North 85 West with the line of the Rutherford County Fair Ground Property and the property of the Callahan-Koon Manufacturing Company and with the line of the Duke Power Company Transmission Line 1270 feet to a point in the center of the road which leads from U. S. Highway Number 74 past the Callahan-Koon Manufacturing Company Office in a Southerly direction 1855 feet to a point where said road intersects the Withrow Road; runs thence from the center of said Withrow Road South 9 West 1850 feet to a point lying 150 feet South of the new U. S. Highway 74 by-pass around Spindale and Forest City; runs thence North 75-1/2 West 2415 feet to a point in the right-of-way of said highway at the Point where said right-of-way intersects the center of Oakland Road; thence continuing 150 feet to the center of said highway in a Westerly direction 5682 feet to a point lying 150 feet South of the intersection of the Oak Street Extension and U. S. Highway 74; runs thence in a Westerly direction and 150 feet from the center of Oak Street Extension also known as State Road Number 2201, 2036 feet to the point where

said line intersects Stonecutter Creek; thence with the center of Stonecutter Creek as it meanders under said road and in a Northwesterly direction 330 feet to a point; runs thence in a Southwesterly direction with center of said creek 494 feet to the point where said creek intersects the branch which leads from the Town of Spindale to the West of the Ellington Heights Subdivision; runs thence with the said branch in a Northerly direction 4512 feet to a point lying 150 feet Southwest of the center of the Spindale By-Pass; runs thence 150 feet from center of said By-Pass in a Northerly direction 2400 feet to a concrete monument in the City Limits of the Town of Rutherfordton; thence with the City Limits of the Town of Rutherfordton, South 72 East 250 feet to a concrete monument; runs thence with the Rutherfordton City Limits North 45 East 1150 feet to the point and place of Beginning.

"Sec. 2.2. *Extension of corporate boundaries.* All extensions of the corporate boundaries shall be governed by the General Statutes of North Carolina.

"ARTICLE III. Mayor and Board of Commissioners.

"Sec. 3.1. *Board of commissioners.* The board of commissioners shall consist of five members to be elected by the qualified voters of the town voting at large in the manner provided in Article IV of this Charter. Together with the mayor, the board shall be charged with the general government of the town.

"Sec. 3.2. *Mayor.* The mayor shall be elected by and from the qualified voters of the town voting at large in the manner provided in Article IV of this Charter. The mayor shall be the official head of the town government and shall preside at all meetings of the board. Where there is an equal division on a question, the mayor shall determine the matter by his vote, but he shall vote in no other case. The mayor shall exercise such powers and perform such duties as are or may be conferred upon him by the general laws of North Carolina, by the town Charter, and by the ordinances of the town.

In case of misconduct, inability, or willful neglect in the performance of the duties of his office, the mayor may be removed from office by the board of commissioners by a majority vote of all members of the board, but shall be given an opportunity to be heard in his defense, in person and by counsel, and shall have the right to have process issued to compel the attendance of witnesses.

"Sec. 3.3. *Mayor pro tempore.* The board shall choose one of its number to act as mayor pro tempore, and he shall perform the duties of the mayor in the mayor's absence or disability. The mayor pro tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the board.

"Sec. 3.4. *Terms; qualifications; vacancies.* (a) The members of the board of commissioners shall serve for terms of two years, and the mayor shall serve for a term of two years, beginning the day and hour of the organizational meeting following their election, as established by ordinance in accordance with this Charter; provided, they shall serve until their successors are elected and qualify.

(b) No person shall be eligible to be a candidate or to be elected as mayor or as a member of the board of commissioners or to serve in such capacity, unless he is a resident and a qualified voter of the town.

(c) In the event a vacancy occurs in the office of mayor or board member, the board of commissioners shall by majority vote appoint some qualified person to fill the same for the remainder of the unexpired term.

"Sec. 3.5. *Organization of town council; oaths of office.* The board members and mayor shall meet and organize for the transaction of business following each

biennial election as provided by the uniform municipal election laws of North Carolina. Before entering upon their offices, the mayor and each board member shall take, subscribe to and have entered upon the minutes of the board the following oath of office:

'I, _____, do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office as _____, so help me, God.'

"Sec. 3.6. *Meetings of the board.* The regular meetings of the mayor and board of commissioners shall be on the first and third Monday in each month, but the board may hold special meetings upon call by the mayor or two members of the board, upon one day's notice, and may hold adjourned meetings from time to time in the discretion of the board.

"Sec. 3.7. *Ordinances and resolutions.* The adoption, amendment, repeal, pleading, or proving of ordinances shall be in accordance with the applicable provisions of the general laws of North Carolina not inconsistent with this Charter. The ayes and noes shall be taken upon all ordinances and resolutions and entered upon the minutes of the board. All ordinances of the town, when printed and published and bearing on the title page thereof the words 'Ordained and Published by the Mayor and Board of Commissioners of the Town of Spindale,' or words of like import, shall be prima facie evidence of their authenticity and shall be admitted and received in all courts and places without further proof. All ordinances shall take effect upon the passage thereof, unless otherwise provided in the ordinance; provided, however, that ordinances granting franchises shall lie upon the table for 30 days after the same are introduced before same shall be passed and become effective.

"ARTICLE IV. Elections.

"Sec. 4.1. *Regular municipal elections.* Regular municipal elections shall be held biennially in odd-numbered years on the day set by general law for municipal elections. In the 1975 regular municipal elections and biennially thereafter there shall be elected a mayor for a term of two years. In the 1975 regular municipal election and biennially thereafter, five board members shall be elected to serve terms of two years each.

"Sec. 4.2. *Regulation of elections.* All town elections shall be conducted in accordance with the general laws of North Carolina relating to municipal elections.

"ARTICLE V. Town Attorney.

"Sec. 5.1. *Appointment; qualifications; term; compensation.* The board shall appoint a town attorney who shall be an attorney at law licensed to engage in the practice of law in North Carolina and who need not be a resident of the town during his tenure. The town attorney shall serve at the pleasure of the board and shall receive such compensation as the board shall determine.

"Sec. 5.2. *Duties of town attorney.* It shall be the duty of the town attorney to prosecute for and defend suits against the town; to advise the mayor, board of commissioners and other town officials with respect to the affairs of the town; to draft all legal documents relating to the affairs of the town; to draft proposed ordinances when requested to do so; to inspect and pass upon all agreements, contracts, franchises and other instruments with which the town may be concerned; to attend all meetings of the board of commissioners when required

by them; and to perform such other duties as may be required of him by virtue of his position as town attorney.

"ARTICLE VI. Administrative officers and employees.

"Sec. 6.1. *Town clerk.* The board shall appoint a town clerk to keep a journal of the proceedings of the board and to maintain in a safe place all records and documents pertaining to the affairs of the town, and to perform such other duties as may be required by law or as the board may direct.

"Sec. 6.2. *Town tax collector.* The board shall appoint a tax collector to collect all taxes, licenses, fees and other moneys belonging to the town, subject to the provisions of this Charter and the ordinances of the town. The town tax collector shall diligently comply with and enforce all the general laws of North Carolina relating to the collection, sale, and foreclosure of taxes by municipalities.

"Sec. 6.3. *Town finance officer.* The board shall appoint a town official to perform the duties of the finance officer as required by the Local Government Budget and Fiscal Control Act.

"Sec. 6.4. *Town budget officer.* The board of commissioners shall appoint a town official to perform the duties of the budget officer as required by the Local Government Budget and Fiscal Control Act.

"Sec. 6.5. *Consolidation of functions.* The board may consolidate any two or more of the positions of town clerk, town budget officer, town tax collector, and town finance officer, or may assign the functions of any one or more of these positions to the holder or holders of any other of these positions, subject to the Local Government Budget and Fiscal Control Act.

"Sec. 6.6. *Administrative officers and employees not cited.* Consistent with applicable State and local laws, the board may establish other positions, provide for the appointment of other administrative officers and employees, and generally organize the town government in order to promote the orderly and efficient administration of the affairs of the town.

"ARTICLE VII. Powers.

"Sec. 7.1. *Recreation.* The town shall have the authority to appropriate moneys for recreation purposes, including the acquisition and operation of a municipal golf course, and municipal bathing facilities. This grant of authority shall include the authority to levy taxes for the aforementioned purposes.

"Sec. 7.2. *Regulation of slaughterhouses.* The town shall have the authority to regulate, license, or prohibit slaughterhouses within the town limits.

"Sec. 7.3. *Enumeration of powers not exclusive.* The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive, but in addition to the powers enumerated or implied herein, the town either through the board of commissioners or through such other officers as may by law be provided for, shall have and may exercise all other powers which, under the Constitution and laws of North Carolina, now are, or hereafter may be, granted to municipal corporations.

"ARTICLE VIII. Initiative and Referendum.

"Sec. 8.1. *Initiative and referendum procedure.* The mayor and board of commissioners shall have the right and authority to call an election to be held at any time upon the written application of twenty-five percent (25%) of the qualified voters of the town for the purpose of voting upon any question which the said petition may request them to submit to a vote of the citizens of the town, whether the same be for the purpose of voting bonds or for the purpose of

ascertaining the wishes of the inhabitants of the town upon any other question of public interest. The mayor and board of commissioners shall advertise said election so ordered for a period of 30 days in some newspaper published in Rutherford County and at the mayor's office in the town, and no special act shall be necessary to authorize the mayor and commissioners to order any such election. The mayor and board of commissioners shall also have the authority to call as many elections under the provisions of this section as they may be petitioned to call in the manner hereinbefore set out, and may call more than one election to be held for the purpose of voting upon the same question if a petition be filed, as herein provided, requesting the mayor and commissioners to call such election, notwithstanding the fact that other elections may have been held for the purpose of ascertaining the wishes of the citizens of the town upon the same question theretofore.

"ARTICLE IX. Property.

"Sec. 9.1. *Rights to vest in the town.* All real estate owned in fee simple or held by lease, sufferance, easement, or otherwise, and all other property which has been granted, donated, purchased, or otherwise acquired by the town or any property which at any future time may be acquired by the town, and all causes of action, rights or privileges of any kind and character which now belong to, or which may at any future time be acquired by the town, shall vest in and remain in and inure to the Town of Spindale under this act. All deeds, conveyances, condemnations, tax foreclosures, or other methods of conveyances, through or by which the town has taken or attempted to take title to property, are hereby validated, ratified and approved, and the absolute title thereto declared to be vested in the Town of Spindale."

Sec. 2. The purpose of this act is to revise the Charter of the Town of Spindale and to consolidate herein certain acts concerning the property, affairs, and government of the town. It is intended to continue without interruption those provisions of prior acts which are consolidated into this act, so that all rights and liabilities that have accrued are preserved and may be enforced.

Sec. 3. This act shall not be deemed to repeal, modify, or in any manner affect any of the following acts, portions of acts, or amendments thereto, whether or not such acts, portions of acts, or amendments are expressly set forth herein.

(a) Any acts concerning the property, affairs, or government of public schools in the Town of Spindale,

(b) Any acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind.

Sec. 4. The following acts or portions of acts, having served the purposes for which they were enacted, or having been consolidated into this act are hereby repealed:

Chapter 2, Private Laws of 1929
Chapter 129, Private Laws of 1935
Chapter 286, Public-Local Laws of 1937
Chapter 532, Public-Local Laws of 1939
Chapter 1182, Session Laws of 1955
Chapter 149, Session Laws of 1971.

Sec. 5. No provision of this act is intended, nor shall be construed, to affect in any way any rights or interests (whether public or private):

(a) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act,

(b) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken (including the adoption of ordinances or resolutions) pursuant to or within the scope of any provisions of law repealed by this act.

Sec. 6. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(a) The repeal herein of any act repealing such law, or

(b) Any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

Sec. 7. (a) All existing ordinances and resolutions of the Town of Spindale and all existing rules or regulations of departments or agencies of the Town of Spindale, not inconsistent with the provisions of this act, shall continue in full force and effect until repealed, modified or amended.

(b) No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act by or against the Town of Spindale or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

Sec. 8. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 9. Whenever a reference is made in this act to a particular provision of the General Statutes, and such provision is later amended, repealed or superseded, the reference shall be deemed amended to refer to the amended General Statute, or to the General Statute which most clearly corresponds to the statutory provision which is repealed or superseded.

Sec. 10. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 11. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of May, 1975.

H. B. 793 **CHAPTER 379**

AN ACT TO AMEND CHAPTER 346 OF THE 1973 SESSION LAWS TO MAKE SAID CHAPTER APPLY TO THE TOWN OF TARBORO.

The General Assembly of North Carolina enacts:

Section 1. Chapter 346 of the 1973 Session Laws is hereby amended by rewriting Section 5 thereof to read as follows:

"Sec. 5. This act shall apply only to the Town of Chapel Hill and the Town of Tarboro."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of May, 1975.

H. B. 795 **CHAPTER 380**

AN ACT TO AUTHORIZE THE COUNTY OF MOORE TO USE THE PROCEDURE SPECIFIED IN ARTICLE 9, CHAPTER 136, IN ACQUIRING LAND BY CONDEMNATION.

The General Assembly of North Carolina enacts:

Section 1. In exercising the power of eminent domain, the County of Moore may, in its discretion, use the procedures provided in Article 9 of Chapter 136 of the General Statutes, or the procedures of any other general law or local act applicable to Moore County. Provided, however, that the provisions of this section shall not apply with regard to properties owned by public service corporations as defined in G.S. 160A-243(c) unless the exercise of such power of eminent domain is either consented to by the owner of the property to be acquired by the county or, otherwise, first adjudicated after notice and a hearing that such acquisition will not prevent or unreasonably impair the continued devotion to the public use of such properties and the operation by such public service corporation.

Sec. 2. This act shall not apply to pending litigation.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of May, 1975.

H. B. 1096 **CHAPTER 381**

AN ACT TO PROVIDE FOR THE NOMINATION AND ELECTION OF THE BOARD OF EDUCATION OF ROBESON COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The Robeson County Board of Education shall consist of nine members who shall be nominated and elected by the qualified voters residing in the county school district. For the purpose of this act, no person residing in a city or town administrative school unit or district shall be eligible for election to the Robeson County Board of Education, or eligible to vote in said election.

Sec. 2. The terms of office of the present members shall continue until the first Monday in December, 1976, at which time their terms shall terminate, and the terms of the members elected pursuant to this act shall begin.

Sec. 3. Beginning with the regular primary and general election to be held in 1976 for county offices, nine members shall be nominated and elected. The five candidates receiving the highest number of votes in the general election shall be elected for a term of four years. The four candidates receiving the next highest number of votes shall be elected for a term of two years. Thereafter, as the terms of each member expires, his successor shall be elected for a term of four years.

Sec. 4. The primary and election shall be held and conducted in accordance with the general laws of North Carolina regulating primaries and elections as provided in Chapter 163 of the General Statutes.

Sec. 5. Any vacancy occurring in the membership of the board of education for any reason shall be filled for the unexpired term by a person named by the remaining members of the board. The person appointed shall belong to the same political party as the person causing the vacancy.

Sec. 6. Members of the board of education elected pursuant to this act shall qualify as provided in G.S. 115-22.

Sec. 7. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 8. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of May, 1975.

S. B. 240 CHAPTER 382

AN ACT TO AMEND G.S. 115-190 AS IT RELATES TO CONTRACTS FOR TRANSPORTATION ENTERED INTO BY COUNTY AND CITY BOARDS OF EDUCATION IN LIEU OF THE OPERATION BY COUNTY AND CITY BOARDS OF EDUCATION OF PUBLIC SCHOOL BUSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115-190 is amended by rewriting the second sentence thereof as follows:

"Any vehicle used by such person, firm or corporation for the transportation of such pupils shall be constructed and equipped as provided in rules and regulations promulgated by the State Board of Education, and the driver of such vehicle shall possess all of the qualifications prescribed by rules and regulations promulgated by the State Board of Education. Provided, that where a contract for transportation of pupils is entered into between a county and city board of education and any person, firm or corporation, which contemplates the use of an automobile or vehicle other than a bus, for the transportation of 16 pupils or less, the automobile or vehicle shall not be required to be constructed and equipped as provided for in G.S. 115-181(d), but shall be constructed and equipped pursuant to rules and regulations promulgated by the State Board of Education."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of May, 1975.

S. B. 251 CHAPTER 383

AN ACT TO AMEND G.S. 115-157 TO DISTINGUISH BETWEEN SUPERVISORS AND CLASSIFIED PRINCIPALS AS TO ANNUAL LEAVE-TAKING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115-157 is hereby amended by rewriting subdivision (3) and by inserting a new subdivision (3.1) between subdivisions (3) and (4) as follows:

"(3) Supervisors. State allotted supervisors shall be employed for a term of 12 calendar months and shall be paid monthly at the end of each calendar month of service for the term of their employment. Included within their term of employment shall be provided the same rate of annual vacation leave and legal holidays as set out in paragraph (a) above, said annual leave to be taken as determined by each county and city board of education.

(3.1) Classified principals. Classified principals shall be employed for a term of 12 calendar months and shall be paid monthly at the end of each calendar month of service for the term of their employment. They shall earn annual leave at the rate of 1.25 days per month employed and shall be provided legal holidays as set out in paragraph (a) above, said annual leave to be taken as determined by each county and city board of education, provided that such leave may be accumulated up to 15 days and taken within the first 60 days of the next ensuing fiscal year."

Sec. 2. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of May, 1975.

S. B. 285 CHAPTER 384

AN ACT TO PROVIDE THE NATIONAL SCHOOL LUNCH PROGRAM IN ALL PUBLIC SCHOOL ADMINISTRATIVE UNITS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115-51 is amended by rewriting the first paragraph as follows:

"As a part of the function of the public school system, county and city boards of education shall provide to the extent practical school food services in the schools under their jurisdiction. All school food services made available under this authority shall be provided in accordance with standards and regulations recommended by the State Superintendent of Public Instruction and approved by the State Board of Education. In the operation of their public school food programs, the public schools shall participate in the National School Lunch Program established by the federal government. The program shall be under the jurisdiction of the Division of School Food Services of the Department of Public Instruction and in accordance with federal guidelines as established by the Child Nutrition Division of the United States Department of Agriculture."

Sec. 2. This act shall become effective July 1, 1976.

In the General Assembly read three times and ratified, this the 26th day of May, 1975.

S. B. 296 CHAPTER 385

AN ACT TO PROVIDE FOR THE CONTROL AND REGULATION OF OUTDOOR ADVERTISING WITHIN THE VICINITY OF THE BLUE RIDGE PARKWAY.

The General Assembly of North Carolina enacts:

Section 1. Article 7 of Chapter 143B of the North Carolina General Statutes is hereby amended by inserting a new Part to be numbered "Part 17B", and entitled "Control of Outdoor Advertising near the Blue Ridge Parkway", and to read as follows:

"§ 143B-324.1. No advertisement or advertising structure shall be erected, constructed, installed, maintained or operated within 1000 feet of the center line of the Blue Ridge Parkway, except the following:

(a) Sign displays or devices which advertise sale, lease, rental, or development of the property on which it is located.

(b) On-premises signs. For the purpose of this act, these signs, displays or devices which carry only advertisements strictly related to the lawful use of the property on which it is located including signs, displays or devices which identify the business transacted, services rendered, goods sold or produced on the property, name of the business, name of the person, firm or corporation occupying or owning the property. The size of signs advertising the major business activity is not regulated hereunder. Signs which advertise brand name products or service sold or offered for sale on the property shall not be displayed as on-premise signs unless such signs are on or attached to the building in which such products are sold. All such signs permitted under this subsection shall be located not more than 150 feet from the building in which such business activity is carried on.

(c) Historic markers erected by duly constituted and authorized public authorities.

(d) Highway markers and signs erected or caused to be erected by the State Highway Commission or other authorized authorities in accordance with the law.

(e) Directional and official signs or notices erected and maintained by public officers or agencies pursuant to and in accordance with lawful authorization for the purpose of carrying out the official duty or responsibility.

(f) Signs located within a 1000 foot radius of intersections created by the crossing of the center line of the Blue Ridge Parkway with the center lines of components of the National System of Interstate and Defense Highways, Federal Aid Primary Highway System, or the North Carolina System of Primary Highways, not, however, inconsistent with other provisions of the General Statutes.

"§ 143B-324.2. The Secretary of the Department of Natural and Economic Resources shall have authority to make and promulgate rules and regulations necessary for the carrying out of the provisions of this act.

"§ 143B-324.3. Any billboard in existence upon the effective date of this act and which does not conform to the requirements of this act may be maintained for the life of such advertisement or advertising structure, provided that:

The Department of Natural and Economic Resources is authorized to acquire by purchase, gift or condemnation all outdoor advertising and all property rights pertaining thereto existing on the effective date of this act which are nonconforming.

(a) In any acquisition, purchase or condemnation, just compensation to the owner of the outdoor advertising, where the owner of the outdoor advertising does not own the fee, shall be limited to the fair market value at the time of the taking of the outdoor advertising owner's interest in the real property on which the outdoor advertising is located and such value shall include the value of the outdoor advertising.

(b) In any acquisition, purchase or condemnation, just compensation to the owner of the fee or other interest in the real property upon which the outdoor advertising is located where said owner does not own the outdoor advertising located thereon shall be limited to the difference in the fair market value of the entire tract immediately before and immediately after the taking by the Commission of the right to erect and maintain such outdoor advertising thereon and in arriving at the fair market value after the taking, any special or general benefits

accruing to the property by reason of the acquisition shall be taken into consideration.

(c) In any acquisition, purchase or condemnation, just compensation to the owner of the fee in the real property upon which the outdoor advertising is located where said owner also owns the outdoor advertising located thereon, shall be limited to the fair market value of the outdoor advertising plus the difference in the fair market value of the entire tract immediately before and immediately after the taking by the Department of Natural and Economic Resources of the right to erect and maintain such outdoor advertising thereon and in arriving at the fair market value after the taking, any special or general benefits accruing to the property by reason of the acquisition shall be taken into consideration.

"§ 143B-324.4. Any outdoor advertising erected or established after the effective date of this act in violation of the provisions of this Article, shall be unlawful and shall constitute a nuisance. The Department of Natural and Economic Resources shall give 30 days' notice by certified mail to the owner of the nonconforming outdoor advertising structure if such owner is known or can by reasonable diligence be ascertained, to move the outdoor advertising structure or to make it conform to the provisions of this Article and rules and regulations promulgated by the Department of Natural and Economic Resources hereunder. The Department of Natural and Economic Resources or its agents shall have the right to remove or contract to have removed the nonconforming outdoor advertising at the expense of the said owner if the said owner fails to act within 30 days after receipt of such notice. The Department of Natural and Economic Resources or its agents or contractor and his employees may enter upon private property for the purpose of removing outdoor advertising prohibited by this Article or rules and regulations promulgated by the Department of Natural and Economic Resources hereunder without civil or criminal liability.

"§ 143B-324.5. For the purposes of this act, the Department of Natural and Economic Resources shall use the procedure for condemnation of property as provided for by Act 9 of Chapter 136 of the General Statutes.

"§ 143B-324.6. Any person, firm, corporation or association placing or erecting outdoor advertising structure or junkyard along the Blue Ridge Parkway in violation of this Article or any regulations passed pursuant thereto, shall be guilty of a misdemeanor. In addition thereto, the Department of Natural and Economic Resources may seek injunctive relief in the superior court of the county in which the said nonconforming outdoor advertising is located and require the outdoor advertising to conform to the provisions of this Article and rules and regulations promulgated pursuant hereto, or require the removal of the said nonconforming outdoor advertising."

Sec. 2. The North Carolina National Parks, Parkway and Forest Development Council is hereby directed to conduct investigations, including, but not limited to, necessary consultations with the National Park Service, to study the feasibility of the use of uniform informational signs along the Parkway which relate to commercial establishments accessible from the Parkway, and report back to the 1977 Session of the General Assembly.

Sec. 3. Part 17 of Chapter 143B of the North Carolina General Statutes is hereby renumbered "Part 17A".

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of May, 1975.

S. B. 433 CHAPTER 386

AN ACT TO AMEND CHAPTER 143B-89 OF THE GENERAL STATUTES TO CORRECT MEMBERSHIP OF NORTH CAROLINA ART SOCIETY, INCORPORATED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-89, as it appears in the 1974 Replacement Volume 3C of the General Statutes, is amended by striking out the number "15" from line 5 of the section and by inserting in lieu thereof the number "16".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of May, 1975.

S. B. 435 CHAPTER 387

AN ACT TO AMEND G.S. 121-20 TO CORRESPOND WITH CHANGES IN 1955 AMENDMENT TO GENERAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 121-20 as it appears in the 1974 Supplement to 1974 Replacement Volume 3B of the General Statutes is amended by deleting the words "Department of Natural and Economic Resources" and inserting in lieu thereof the words "Department of Cultural Resources" in each of the following instances:

(a) in paragraph 3 at lines 4-5;
(b) in paragraph 6 at line 3; and
(c) in paragraph 6 at lines 4-5.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of May, 1975.

S. B. 491 CHAPTER 388

AN ACT TO INCORPORATE THE TOWN OF RAYNHAM IN ROBESON COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The inhabitants of the area described in Section 2 of this act shall be and constitute a body politic and corporate under the name of the "Town of Raynham", and shall have all the power, authority, rights, privileges or immunities conferred upon municipal corporations by the Constitution and general laws of North Carolina, and particularly Chapter 160A of the General Statutes.

Sec. 2. The corporate limits of the Town of Raynham shall be as herein described until changed as authorized by law:

BEGINNING at a point in the center U.S. Hwy. 301, said point being N 64-45'E 1673.0' from the intersection U.S. 301 with the center Paved Secondary Road No. 1154, and runs N 13-08'W 381.0' to a point; thence N

89-14'W 1510.0' to a point; thence S 69-49'W 348.0' to a point in the center Secondary Road No. 1154; thence S 40-53'W 2284.0' to a point; thence S 46-25'E 1301.0' to a point; thence N 46-27'E 3415.0' to the beginning containing 103.8 acres.

Sec. 3. The Board of Commissioners of the Town of Raynham shall consist of five members. The mayor of the town shall be elected for a term of two years, and the members of the Board shall be elected as herein provided for staggered terms of four years.

Sec. 4. Beginning with the regular municipal election to be held in Raynham in 1975, the three candidates for Town Commissioner receiving the highest number of votes shall be elected for terms of four years, and the two candidates receiving the next highest number of votes shall be elected for terms of two years. Thereafter, as the terms of each member expire, their successors shall be elected for terms of four years.

Sec. 5. The municipal elections shall be non-partisan and decided by a simple plurality, and shall be held and conducted by the Robeson County Board of Elections in accordance with the applicable provisions of Articles 23 and 24 of Chapter 163 of the General Statutes.

Sec. 6. The officers elected under this act shall take office on the first Monday in December following their election and qualify by taking the oath of office. The Board of Commissioners shall hold a regular meeting at least once a month, and shall fix the time and place of its regular meetings.

Sec. 7. The fiscal affairs of the Town shall be governed by Chapter 159 of the General Statutes and all other pertinent provisions of the Constitution and general laws of the State. The Board of Commissioners may adopt a budget ordinance for the remaining months of the 1975-76 fiscal year, following their qualification for office, without having to comply with the budget preparation and adoption timetable set out in the Local Government Budget and Fiscal Control Act. However, the board may not levy property taxes until the 1976-77 fiscal year.

Sec. 8. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of May, 1975.

S. B. 516 CHAPTER 389

AN ACT TO REENACT THE AUTHORITY OF BOARDS OF COUNTY COMMISSIONERS TO REDEFINE ELECTORAL DISTRICT BOUNDARIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153A-21 as the same appears in 1974 Replacement Volume 3C of the General Statutes of North Carolina is hereby reenacted.

Sec. 2. This act shall apply only to Robeson County.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of May, 1975.

S. B. 530

CHAPTER 390

AN ACT TO ADD THE UNIVERSITY OF NORTH CAROLINA TO THOSE AGENCIES EXEMPT FROM THE PROVISIONS OF CHAPTER 150A OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 150A-1(a), as it appears in the 1974 Supplement to Volume 3C of the General Statutes, is hereby amended by adding at the end of that subsection the following: "Article 4 of this Chapter, governing judicial review of final agency decisions, shall apply to the University of North Carolina and its constituent or affiliated boards, agencies, and institutions, but the University of North Carolina and its constituent or affiliated boards, agencies, and institutions are specifically exempted from the remaining provisions of this Chapter."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of May, 1975.

S. B. 571

CHAPTER 391

AN ACT TO AMEND CHAPTERS 1 AND 15 OF THE GENERAL STATUTES, AND RELATED PROVISIONS DEALING WITH APPELLATE PROCEDURE IN THE COURTS, TO CONFORM TO THE RULES OF APPELLATE PROCEDURE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1-285 is amended by deleting the last two sentences.

Sec. 2. G.S. 1-287 is repealed.

Sec. 3. G.S. 1-279 is deleted and rewritten to read as follows:

"§ 1-279. *Manner and time for taking appeal in civil action or special proceeding.*—(a) From Judgments and Orders Rendered in Session. Any party entitled by law to appeal from a judgment or order of a superior or district court rendered in a civil action or special proceeding during a session of court may take appeal by:

(1) giving oral notice of appeal at trial, or at any hearing of a timely motion under G.S. 1A-1, Rule 59, for a new trial or to alter or amend a judgment, or under G.S. 1A-1, Rule 50, for judgment notwithstanding the verdict with or without a motion for a new trial; or

(2) filing notice of appeal with the clerk of superior court and serving copies thereof upon all other parties within the time prescribed by subsection (c).

(b) From Judgments and Orders Rendered Out of Session. Any party entitled by law to appeal from a judgment or order of a superior or district court rendered in a civil action or special proceeding out of session may take appeal by filing notice of appeal with the clerk of superior court and serving copies thereof upon all other parties within the time prescribed by subsection (c).

(c) Time When Taken by Written Notice. If not taken by oral notice as provided in subsection (a)(1), appeal from a judgment or order in a civil action or special proceeding must be taken within 10 days after its entry. The running of the time for filing and serving a notice of appeal in a civil action or special proceeding is tolled as to all parties by a timely motion filed by any party

pursuant to the Rules of Civil Procedure enumerated in this subdivision, and the full time for appeal commences to run and is to be computed from the entry of an order upon any of the following motions: (i) a motion under G.S. 1A-1, Rule 50(b), for judgment n.o.v. whether or not with conditional grant or denial of new trial; (ii) a motion under G.S. 1A-1, Rule 52(b), to amend or make additional findings of fact, whether or not an alteration of the judgment would be required if the motion is granted; (iii) a motion under G.S. 1A-1, Rule 59, to alter or amend a judgment; (iv) a motion under G.S. 1A-1, Rule 59, for a new trial. If a timely notice of appeal is filed and served by a party, any other party may file and serve a notice of appeal within 10 days after the first notice of appeal was served on such party.

(d) Content and Service of Notice of Appeal. The content and mode of service of the notice of appeal required by this section are as prescribed by the rules of appellate procedure."

Sec. 4. G.S. 1-280 is repealed.

Sec. 5. G.S. 15-180 is amended by deleting the clause following the last semicolon, replacing that semicolon with a period, and adding after that period the following:

"The manner and time for taking appeal are as provided in G.S. 15-180.3. The procedure for perfecting and prosecuting the appeal after its taking are as provided by the rules of appellate procedure."

Sec. 6. A new section, G.S. 15-180.3, is added to read as follows:

"§ 15-180.3. *Manner and time for taking appeal in criminal action.*—(a) Any party entitled by law to appeal to the appellate division from a judgment or order of a superior or district court rendered in a criminal action may take appeal by:

(1) giving oral notice of appeal at trial, or

(2) filing notice of appeal with the clerk of superior court and serving copies thereof upon all adverse parties within 10 days after the last day of the session at which rendered.

(b) Content and Service of Notice of Appeal. The content and mode of service of the notice of appeal required by this section are as prescribed by the rules of appellate procedure."

Sec. 7. G.S. 1-282 is repealed.

Sec. 8. G.S. 1-283 is deleted and rewritten to read as follows:

"§ 1-283. *Trial judge empowered to settle record on appeal; effect of leaving office or of disability.*—Except as provided in this section, only the judge of superior court or of district court from whose order or judgment an appeal has been taken is empowered to settle the record on appeal when judicial settlement is required. A judge retains power to settle a record on appeal notwithstanding he has resigned or retired or his term of office has expired without reappointment or reelection since entry of the judgment or order. Proceedings for judicial settlement when the judge empowered by this section to settle the record on appeal is unavailable for the purpose by reason of death, mental or physcial incapacity, or absence from the State shall be as provided by the rules of appellate procedure."

Sec. 9. G.S. 1-284 is repealed.

Sec. 10. G.S. 1-287.1 is repealed.

Sec. 11. G.S. 58-9.5 is amended as follows:

(1) By deleting subsection (4) and rewriting it to read as follows:

"(4) The appeal shall lie to the Court of Appeals as provided in G.S. 7A-29. The procedure for the appeal shall be as provided by the rules of appellate procedure."

(2) By repealing subsections (5) and (6).

(3) By renumbering subsections (7), (8), (9), and (10) to be subsections (5), (6), (7), and (8) respectively.

(4) By deleting in the first and last sentences of renumbered subsection (6) the words "the Court of Appeals" and substituting therefor in each sentence the words "appellate procedure."

Sec. 12. G.S. 62-90 is amended as follows:

(1) By deleting subsection (d) and rewriting it to read as follows: "(d) The appeal shall lie to the Court of Appeals as provided in G.S. 7A-29. The procedure for the appeal shall be as provided by the rules of appellate procedure."

(2) By repealing subsections (e) and (f).

(3) By relettering subsection (g) to be subsection (e).

Sec. 13. G.S. 62-91 is amended by deleting in the first and last sentences thereof the words "the Court of Appeals" and substituting therefor in each sentence the words "appellate procedure."

Sec. 14. G.S. 62-94(a) is amended by deleting, wherever it appears, the words "the Court of Appeals" and substituting therefor in each instance the words "appellate procedure."

Sec. 15. G.S. 97-86 is amended by deleting all of the first unnumbered paragraph except the first sentence thereof, all of the second unnumbered paragraph, and all of the third unnumbered paragraph; and by substituting for the deleted matter the following: "The procedure for the appeal shall be as provided by the rules of appellate procedure."

Sec. 16. This act shall be in effect on and after July 1, 1975, in respect of all appeals from the courts of the trial divisions, the Utilities Commission, the Industrial Commission, and the Commissioner of Insurance to the courts of the appellate division which shall be taken on and after the effective date. This act shall not apply to appeals taken prior to its effective date.

In the General Assembly read three times and ratified, this the 26th day of May, 1975.

S. B. 644 CHAPTER 392

AN ACT TO REDEFINE THE CORPORATE LIMITS OF THE TOWN OF BETHEL IN PITT COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 997, Session Laws of 1969 is hereby amended by deleting from Section 1 the metes and bounds description contained therein, and by inserting in lieu thereof a new description of the corporate limits of the Town of Bethel to read as follows:

"Beginning at a stake in the western right-of-way line of N. C. Highway No. 11, said stake being located 150 feet northwardly from the intersection of the northern right-of-way line of Harper Drive with the western right-of-way line of N. C. Highway No. 11; thence with the western line of N. C. Highway No. 11 S. 02° 00' W., 62.0 feet; thence crossing N. C. Highway No. 11 and with the northern right-of-way line of S. R. 1501 N. 72° 30' E., 237.0 feet; thence leaving said right-of-way of S. R. 1501 S. 19° 43' E., 3,430 feet to a point in the

center line of the Seaboard Coast Line Railroad track; thence S. 06° 37' W., 2,500 feet; thence S. 83° 23' E., 273 feet; thence S. 06° 37' W., 671 feet to a point in the southern right-of-way line of the Flat Swamp Road; thence with the southern right-of-way line of the Flat Swamp Road N. 62° 43' W., 355 feet; thence N. 69° W., 300 feet; thence N. 75° 30' W., 376 feet; thence leaving the southern right-of-way of Flat Swamp Road S. 08° 30' W., 558.6 feet to an iron stake; thence S. 06° 30' W., 176.5 feet to an iron stake; thence S. 08° 30' W., 461.27 feet to the center of the VEPCO primary power transmission line; thence with the center of the VEPCO power line S. 78° 27' W., 2,497.15 feet to a hedgerow dividing the Blount and Carson properties; thence with the Blount-Carson line N. 03° 35' E., 880.7 feet to the center of N.C.S.R. No. 1429; thence with said road N. 74° 52' W., 165 feet; thence leaving said road N. 29° 12' W., 1,718.45 feet; thence N. 40° 12' W., 1,190 feet; thence N. 04° 30' W., 200.0 feet to a point in the southern right-of-way line of West Washington Street; thence with the southern right-of-way line of West Washington Street S. 85° 30' W., 1,370 feet; thence leaving said right-of-way of West Washington Street N. 50° 33' E., 817 feet to a point in the centerline of the Seaboard Coastline Railroad track; thence with the center line of the Seaboard Coastline Railroad track N. 84° 52' E., 1,370 feet; thence leaving said center line and with the eastern side of a ditch N. 07° 30' W., 495 feet to an iron stake; thence N. 72° E., 715 feet; thence parallel and 150 feet westerly from the western right-of-way line of Robinson Street N. 06° 30' E., 2,540 feet more or less to the southern right-of-way line of Hammond Avenue; thence with the southern line of Hammond Avenue S. 84° 00' E., 720 feet more or less to the western right-of-way line of West Lane; thence with the western right-of-way line of West Lane N. 02° 00' E., 200 feet; thence S. 84° 00' E., 550 feet; thence N. 02° 00' E., 400 feet; thence S. 87° 45' E., 1,108 feet to the point of beginning."

Sec. 2. Any territory, its citizens and property embraced within the above description which was not within the corporate limits shall from and after the ratification of this act be subject to the provisions of G.S. 160A-31(e).

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of May, 1975.

H. B. 146 CHAPTER 393

AN ACT TO AMEND G.S. 1-69.1 TO ALLOW PARTNERSHIPS TO BE SUED OR TO SUE IN THEIR COMMON NAME.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1-69.1 is hereby amended on line two after the word "societies" by adding the words, "or general or limited partnerships"; and is hereby further amended by deleting the last sentence.

Sec. 2. G.S. 1-69.1 is further amended by adding a new sentence at the end to read as follows: "Any unincorporated association, organization, society, or general partnership bringing a suit in the name by which it is commonly known and called must allege the specific location of the recordation required by G.S. 66-68."

Sec. 3. This act shall become effective October 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of May, 1975.

H. B. 243 **CHAPTER 394**

AN ACT TO PROVIDE FOR ONE MEMBER OF THE GENERAL STATUTES COMMISSION TO BE APPOINTED BY THE PRESIDENT OF THE NORTH CAROLINA BAR ASSOCIATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 164-14(a) is hereby amended on line 2 by deleting the figure "10" and inserting in lieu thereof the figure "11"; and is further amended by adding a new subdivision (10) to read as follows:

"(10) One member by the President of the North Carolina Bar Association."

Sec. 2. G.S. 164-14(c) is hereby amended on line 7 after the word "Senate", by inserting the words "President of the North Carolina Bar Association".

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of May, 1975.

H. B. 593 **CHAPTER 395**

AN ACT TO TRANSFER RESPONSIBILITY FOR FORWARDING DEATH CERTIFICATIONS TO THE COUNTY BOARD OF ELECTIONS FROM THE REGISTER OF DEEDS TO THE STATE HEALTH DIRECTOR.

The General Assembly of North Carolina enacts:

Section 1. The third paragraph of Section 163-69 of the North Carolina General Statutes is amended to read as follows:

"To the end that the permanent registration records shall be purged of the names of registrants who have died or who have become disqualified to vote since registration, the Department of Human Resources, on or before the 15th day of the months of March, June, September and December, shall furnish free of charge to each county board of elections a certified list of the names of deceased persons who were residents of that county, such certified list to be based upon the information supplied by death certificates received by the Department of Human Resources during the preceding quarter. Upon the receipt of such a certification from the health director, the county board of elections shall cause to be removed from its permanent registration records the name of any person appearing on the death certification."

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of May, 1975.

H. B. 642 **CHAPTER 396**

AN ACT TO REWRITE G.S. 130-14 AND TO AMEND G.S. 130-14.1 TO CLARIFY THE APPOINTMENT AND COMPOSITION OF DISTRICT HEALTH BOARDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-14, as it appears in Volume 3B of the General Statutes, is hereby rewritten to read as follows:

"§ 130-14. *District health departments.*—(a) Under rules and regulations established by the Commission for Health Services, district health departments including more than one county may be formed in lieu of county health departments upon agreement of the boards of county commissioners and local boards of health having jurisdiction over each of the counties involved. A county may, in accordance with the rules and regulations of the Commission for Health Services, join a district health department upon agreement of the board of commissioners of the county and the district board of health. A district health department shall be a public authority as defined in G.S. 159-7(b)(10).

(b) The Department of Human Resources may request the health department of a county to become part of a district health department composed of several counties, if in the opinion of the department the public interest and the delivery of public health services to all the people of the new district would be enhanced thereby.

(c) The policy-making body of a district health department shall be a district board of health composed of 15 members. The board of county commissioners of each county in the district shall appoint one county commissioner to the district board of health. The county commissioner members shall appoint the other members of the board, including at least one licensed physician, one licensed dentist, and one licensed pharmacist, so as to provide equitable district-wide representation. The composition of the board shall reasonably reflect the population makeup of the entire district. The members, except for the county commissioner members, shall serve terms of three years; provided, however, that two of the original members shall serve terms of one year, two of the original members shall serve terms of two years, and the remaining original members shall serve terms of three years. No member shall serve more than three consecutive three-year terms on the board to which he is appointed. County commissioners' terms of office as members of district boards of health shall be concurrent with their terms of office as county commissioners. When a county commissioner member of the board of health ceases to be a county commissioner for any reason, his appointment as a member of the board of health shall also cease, and the board of county commissioners of the county from which he was appointed, during their next meeting, shall appoint another commissioner to the board of health.

(d) The district board of health shall elect its own chairman annually. The district health director shall act as secretary to the board. A majority of the members shall constitute a quorum.

(e) Whenever a county shall join or withdraw from an existing district health department, the board of the district health department shall be dissolved and a new board shall be appointed as provided in subsection (c) above.

(f) The terms of all members of district boards of health holding office on April 9, 1973, shall expire on the same date as they would have had the 1973

Session Laws, Chapter 143, not been passed. Upon expiration of these terms their successors shall be appointed to terms of three years.

(g) Notwithstanding any provision of G.S. 130-14.1, no district health department shall be dissolved without prior written notification to the Department of Human Resources.

(h) No funds otherwise available for any health department of a county shall be withheld or diminished because of failure or refusal of such county health department to join or remain in a district health department."

Sec. 2. G.S. 130-14.1, as it appears in Volume 3B of the General Statutes, is hereby amended by deleting in the second, third, fourth and fifth lines of the last paragraph the words "except that if two or more counties of the original district continue to operate as a district health department, those ordinances and regulations adopted by the original district board of health shall continue in effect".

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of May, 1975.

H. B. 744 CHAPTER 397

AN ACT TO PROHIBIT THE SETTING OF STEEL TRAPS ON CERTAIN RENTED OR LEASED LAND IN CLEVELAND, POLK, AND RUTHERFORD COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. It shall be unlawful in Cleveland, Polk, and Rutherford Counties for any person, firm or corporation to set or possess any steel trap of any type or take any animal caught in any steel trap, on any lands, except as hereinafter provided.

Sec. 2. It shall be lawful for any person, firm or corporation to set or possess steel traps and take animals therefrom, provided not otherwise prohibited by law, on his own land, or on lands which have been leased solely for agricultural purposes.

Sec. 3. It is the intent and purpose of this act to prohibit any person, firm or corporation from setting or using steel traps of any type on lands in Cleveland, Polk, and Rutherford Counties which have been leased or sublet from some other person, firm or corporation, except lands which have been leased solely for agricultural purposes.

Sec. 4. Violation of this act shall be a misdemeanor punishable by a fine of not less than fifty dollars ($50.00) or more than two hundred dollars ($200.00), or by imprisonment for not more than 30 days or by both fine and imprisonment, in the discretion of the court.

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of May, 1975.

H. B. 746 **CHAPTER 398**

AN ACT TO AMEND CHAPTER 1436 OF THE SESSION LAWS OF 1957 WITH RESPECT TO THE PROCEDURES OF THE GAME COMMISSION OF CURRITUCK COUNTY IN LICENSING WATERFOWL HUNTING BLINDS.

The General Assembly of North Carolina enacts:

Section 1. Section 10 of Chapter 1436 of the Session Laws of 1957 is hereby amended by deleting the word "September" as the same appears in the sixth and eleventh lines and by inserting the word "August" in lieu thereof.

Sec. 2. Paragraph (a) of Section 29 of Chapter 1436 of the Session Laws of 1957 is hereby amended by deleting the words "August 15 and the second Wednesday in September" from the fourth line of said paragraph and by inserting the words "August 1 and the second Wednesday in August" in lieu thereof.

Sec. 3. Paragraph (b) of Section 29 of Chapter 1436 of the Session Laws of 1957 is hereby amended by deleting the words "second Thursday in September" from the fourth line of said paragraph and by inserting the words "Thursday following the second Wednesday in August" in lieu thereof.

Sec. 4. Paragraph (c) of Section 29 of Chapter 1436 of the Session Laws of 1957 is hereby amended as follows:

"(1) by deleting the word 'September' from the third line of said paragraph and by inserting the word 'August' in lieu thereof;

(2) by deleting the words 'Monday in October' from the tenth line of said paragraph and by inserting the words 'Tuesday in September' in lieu thereof; and

(3) by deleting the words 'fourth Saturday in October' from the fifteenth line of said paragraph and by inserting the words 'Thursday following the fourth Wednesday in August' in lieu thereof."

Sec. 5. Paragraph (d) of Section 29 of Chapter 1436 of the Session Laws of 1957 is hereby amended by deleting the words "Monday in October" from the second line of said paragraph and by inserting the words "Tuesday in September" in lieu thereof.

Sec. 6. Paragraph (e) of Section 29 of Chapter 1436 of the Session Laws of 1957 is hereby amended as follows:

"(1) by deleting the words 'second Wednesday in October' from the second and third lines of said paragraph and by inserting the words 'third Wednesday in September' in lieu thereof; and

(2) by deleting the word 'November' from the fifteenth line of said paragraph and by inserting the word 'next' in lieu thereof."

Sec. 7. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of May, 1975.

H. B. 758 **CHAPTER 399**

AN ACT TO AMEND G.S. 143-341(4)a. AND b. SO AS TO DELETE THE REQUIREMENT THAT THE DEPARTMENT OF ADMINISTRATION MUST HAVE A METES AND BOUNDS DESCRIPTION FOR ALL LAND OWNED OR LEASED BY THE STATE AND TO DELETE THE REQUIREMENT THAT THE DEPARTMENT'S INVENTORY OF LANDS AND BUILDINGS OWNED AND LEASED BY THE STATE MUST REFLECT THEIR CONDITION AND CURRENT VALUE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-341(4)a. is hereby rewritten to read as follows:

"a. To prepare and keep current a complete and accurate inventory of all land owned or leased by the State or by any State agency. This inventory shall show the location, acreage, description, source of title and current use of all land (including swamplands or marshlands) owned by the State or by any State agency, and the agency to which each tract is currently allocated. Surveys may be made where necessary to obtain information for the purposes of this inventory. Accurate plats or maps of all such land may be prepared, or copies obtained where such maps or plats are available."

Sec. 2. G.S. 143-341(4)b. is hereby rewritten to read as follows:

"b. To prepare and keep current a complete and accurate inventory of all buildings owned or leased (in whole or in part) by the State or by any State agency. This inventory shall show the location, amount of floor space and floor plans of every building owned or leased by the State or by any State agency, and the agency to which each building, or space therein, is currently allocated. Floor plans of every such building shall be prepared or copies obtained where such floor plans are available, where needed for use in the allocation of space therein."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of May, 1975.

H. B. 760 **CHAPTER 400**

AN ACT TO DEFINE THE STATUS OF AREA MENTAL HEALTH BOARDS AND TO CLARIFY THE MEMBERSHIP THEREOF.

The General Assembly of North Carolina enacts:

Section 1. G.S. 122-35.20 (b) as the same appears in the 1974 Cumulative Supplement to Volume 3B of the General Statutes is hereby amended and rewritten to read:

"(b) In areas consisting of only one county with a population of 275,000 or more, the board of county commissioners may serve as the area mental health board, or they shall appoint all members of the area mental health board. In areas consisting of more than one county where the population is less than 275,000, each board of county commissioners within the area shall appoint one commissioner as a member of the area mental health board. These members shall appoint the other members of the area mental health board in such a manner as to provide equitable area wide representation. In areas consisting of only one county where the population is less than 275,000, the board of county

commissioners shall appoint all of the members of the area mental health board."

Sec. 2. G.S. 122-35.20 (c)(4) is hereby amended and rewritten to read:

"(4) At least three representatives from local citizen organizations to include one each from those active in areas of alcohol and drug dependency, mental health, and mental retardation."

Sec. 3. G.S. 122-35.20 (e) is hereby amended and rewritten to read:

"(e) Subject to the rules, regulations and standards of the commission for mental health services, the area mental health board shall be responsible for reviewing and evaluating the area needs and programs in mental health, mental impairment, mental retardation, alcoholism, drug dependency, and related fields, and for developing jointly with the State Department of Human Resources an annual plan for the effective development, use and control of State and local facilities and resources in a comprehensive program of mental health services for the residents of the area. Area mental health boards are local political subdivisions created jointly by county or counties and the North Carolina Commission for Mental Health Services, and employees thereof are local employees; however, for the purpose of personnel administration Chapter 126 shall be applicable."

Sec. 4. G.S. 122-35.20 is hereby amended by adding a new subsection "(f)" as follows:

"(f) This plan shall include an inventory of existing services provided by the area program for the mentally ill, mentally retarded, alcoholic and drug abuser; services to be provided these groups during the next fiscal year; and projected services for these groups during the following four years. The annual plan shall indicate the expenditure of all State funds for each service provided, separate from other federal and local funds. The annual plan of each area shall include a specific contractual or services plan for relating to the State mental hospital, center for the mentally retarded, and/or alcoholic rehabilitation center located within the area's mental health region. Before funds are provided to area programs, counties, municipalities, or other local mental health departments, such annual plans shall be submitted to and approved by the Department of Human Resources."

Sec. 5. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of May, 1975.

H. B. 763 CHAPTER 401

AN ACT TO AMEND SCHEDULE IV OF THE CONTROLLED SUBSTANCES ACT TO INCLUDE CERTAIN NEW SUBSTANCES THEREIN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-92 is hereby amended as follows:

(a) by rewriting subsection "(a)" as follows:

"(a) Any material, compound, mixture, or preparation which contains any

quantity of the following substances unless specifically exempted or listed in another schedule:

1. Barbital
2. Chloral betaine
3. Chloral hydrate
4. Ethchlorvynol
5. Ethinamate
6. Mebutamate
7. Meprobamate
8. Methohexital
9. Methlyphenobarbital
10. Paraldehyde
11. Petrichloral
12. Phenobarbital"

(b) by adding a new subsection "(d)" as follows:

"(d) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Diethylpropion

(2) Phentermine

(3) Pemoline (including organometallic complexes and chelates thereof)."

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of May, 1975.

H. B. 769 CHAPTER 402

AN ACT TO REPEAL CERTAIN SECTIONS OF THE NORTH CAROLINA GENERAL STATUTES TO ELIMINATE SEX-BASED DISTINCTIONS THAT CREATE DISCRIMINATION.

The General Assembly of North Carolina enacts:

Section 1. The following sections of the General Statutes are repealed:

"§ 14-48. *Slandering innocent women.*

"§ 14-24. *Obtaining carnal knowledge of married woman by personating husband.*

"§ 14-25. *Attempted carnal knowledge of married woman by personating husband.*

"§ 14-180. *Seduction.*

"§ 14-185. *Inducing female persons to enter hotels or boardinghouses for immoral purposes.*

"§ 14-187. *Permitting unmarried female under 18 in house of prostitution.*

"§ 14-198. *Lewd women within three miles of colleges and boarding schools.*

"§ 14-262. *Requiring female prisoners to work in chain gang.*

"§ 14-319. *Marrying females under 16 years old.*

"§ 72-39. *Inducing female to enter tourist camps, etc., for immoral purpose made misdemeanor.*

"§ 99-4. *Charging innocent woman with incontinency.*"

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of May, 1975.

H. B. 777 CHAPTER 403

AN ACT TO AMEND G.S. 130-14.1 RELATING TO THE DISSOLUTION OF A DISTRICT HEALTH DEPARTMENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-14.1 is amended as follows:

(1) by deleting from lines 6 and 7 of the second paragraph the words "by an independent public accounting firm as selected by the district board of health"; and

(2) by inserting after the second sentence of the second paragraph the following sentences: "The district board of health shall select a certified public accountant or an accountant who is subsequently certified by the Local Government Commission to conduct the audit. The audit shall be performed in accordance with G.S. 159-34."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of May, 1975.

H. B. 789 CHAPTER 404

AN ACT TO LENGTHEN THE SEGMENT OF THE SOUTH FORK, NEW RIVER, IN ASHE AND ALLEGHANY COUNTIES INCLUDED IN THE NORTH CAROLINA NATURAL AND SCENIC RIVER SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113A-35.1 is amended by deleting the section in its entirety and substituting therefor the following section:

"That segment of the South Fork of the New River extending from its confluence with Dog Creek in Ashe County downstream through Ashe and Alleghany Counties to its confluence with the North Fork of the New River and the main fork of the New River in Ashe and Alleghany Counties downstream to the Virginia state line shall be a scenic river area and shall be included in the North Carolina Natural and Scenic Rivers System.

The Department of Natural and Economic Resources shall prepare a management plan for said river section. This management plan shall recognize and provide for the protection of the existing undeveloped scenic and pastoral features of the river. Furthermore, it shall specifically provide for continued use of the lands adjacent to the river for normal agricultural activities, including but not limited to, cultivation of crops, raising of cattle, growing of trees and other practices necessary to such agricultural pursuits.

For purposes of implementing this section and the management plan, the Department of Natural and Economic Resources is empowered to acquire in fee simple not more than 400 acres and to acquire easements, to provide for protection of scenic values as described in G.S. 113A-38 and to provide for public access, in as many as 1,500 acres. Easements obtained for the purpose of implementing this section and the management plan shall not abridge the water rights being exercised at the time this act becomes effective.

Should the Governor seek inclusion of the said river segment in the National System of Wild and Scenic Rivers by action of the Secretary of Interior, such inclusion shall be at no cost to the federal government, as prescribed in the National Wild and Scenic Rivers Act, and therefore shall be under the terms described in this section of the North Carolina Wild and Scenic Rivers Act and in the management plan developed pursuant thereto."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of May, 1975.

H. B. 824 CHAPTER 405

AN ACT TO CORRECT A TECHNICAL ERROR IN CHAPTER 476, SECTION 128 OF THE 1973 SESSION LAWS PERTAINING TO CONFORMING CHANGES TO EFFECTUATE REORGANIZATION.

The General Assembly of North Carolina enacts:

Section 1. Section 128 of Chapter 476 of the 1973 Session Laws of North Carolina pertaining to conforming changes to effectuate reorganization is hereby amended by striking the figures and word "4, and 8" appearing in line 10 thereof immediately after the figure "3".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of May, 1975.

H. B. 829 CHAPTER 406

AN ACT TO AMEND CHAPTER 344 OF THE 1961 SESSION LAWS RELATING TO THE DISTRIBUTION OF THE NET PROFITS OF THE TOWN OF OCEAN ISLE BEACH ALCOHOLIC CONTROL BOARD.

The General Assembly of North Carolina enacts:

Section 1. Paragraph 2 of Section 6 of Chapter 344 of the 1961 Session Laws is rewritten to read as follows:

"The net profits derived from the operation of said Alcoholic Beverage Control Stores by the Town of Ocean Isle Beach Board of Alcoholic Control shall, on a quarterly basis, be paid over as follows:

(a) Five percent (5%) to the Union Primary School.

(b) Five percent (5%) to the Shallotte Middle School.

(c) Ten percent (10%) to the West Brunswick High School.

(d) Eighty percent (80%) to go to the General Fund of the Town of Ocean Isle Beach."

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of May, 1975.

H. B. 844 **CHAPTER 407**

AN ACT TO AUTHORIZE A COUNTY AND CITIES WITHIN THAT COUNTY TO CREATE A JOINT REDEVELOPMENT COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Article 22 of Chapter 160A of the General Statutes of North Carolina is hereby amended to insert a new section to be designated as G.S. 160A-507.1 to read as follows:

"§ 160A-507.1. *Creation of Joint County-City Redevelopment Commission.*—A county and one or more cities within the county are hereby authorized to create a separate and distinct body corporate and politic to be known as the Joint Redevelopment Commission by the passage of a resolution by the board of county commissioners and the governing body of one or more cities within the county creating such a commission to function within the territorial limits of such participating units of government; provided, however, that notice of the intent to consider passage of such a resolution or ordinance shall be published at least 10 days prior to the meeting of the affected governing boards for such purposes, and further provided that a joint redevelopment commission created hereunder shall have authority to operate in an area where there presently exists a redevelopment commission upon the approval of the municipality or county concerned. The governing body of each participating local government shall appoint one or more commissioners as such governing bodies shall determine; such persons may be appointed at or after the time of adoption of the resolution creating the joint redevelopment commission. The appointing authority shall have the authority to appoint successors or to remove persons for misfeasance, malfeasance or nonfeasance who are appointed by them. Each commissioner shall serve for a term designated by the governing bodies of not less than one nor more than five years. The appointed members as commissioners shall constitute the joint redevelopment commission and certification of appointment shall be filed with the Secretary of State as part of the application for charter.

All provisions of the 'Urban Redevelopment Law' as defined in Article 22 of Chapter 160A of the General Statutes shall apply to the creation and operation of a joint redevelopment commission and where reference is made to municipality, it shall be interpreted to apply to the units of government creating a joint redevelopment commission."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of May, 1975.

H. B. 851 **CHAPTER 408**

AN ACT TO AMEND THE RULES OF CIVIL PROCEDURE TO PROVIDE AN ALTERNATE METHOD FOR SERVICE OF PROCESS BY REGISTERED OR CERTIFIED MAIL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1A-1, Rule 4 (j)(9)b is hereby rewritten as follows:

"b. Registered or certified mail. Any party subject to service of process under this subsection (9) may be served by mailing a copy of the summons and complaint, registered or certified mail, return receipt requested, addressed to the party to be served. Service shall be complete on the day the summons and complaint are delivered to the addressee, but the court in which the action is pending shall, upon motion of the party served, allow such additional time as may be necessary to afford the defendant reasonable opportunity to defend the action. Before judgment by default may be had on such service, the serving party shall file an affidavit with the court showing the circumstances warranting the use of service by registered or certified mail and averring (i) that a copy of the summons and complaint was deposited in the post office for mailing by registered or certified mail, return receipt requested, (ii) that it was in fact received as evidenced by the attached registered or certified receipt or other evidence satisfactory to the court of delivery to the addressee and (iii) that the genuine receipt or other evidence of delivery is attached. This affidavit shall be prima facie evidence that service was made on the date disclosed therein in accordance with the requirements of this paragraph, and shall also constitute the method of proof of service of process when the party appears in the action and challenges such service upon him."

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of May, 1975.

H. B. 855 **CHAPTER 409**

AN ACT TO AMEND G.S. 14-234 IN ORDER TO PERMIT CERTAIN PUBLIC OFFICIALS TO TRANSACT BUSINESS WITH SAVINGS AND LOAN ASSOCIATIONS IN THE REGULAR COURSE OF BUSINESS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-234 is hereby amended by inserting after the phrase "banking institutions" in lines 7 and 8 of said section the words "or savings and loan associations".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of May, 1975.

H. B. 930 **CHAPTER 410**

AN ACT TO REENACT G.S. 54-21.2(b) ALLOWING STATE-CHARTERED SAVINGS AND LOAN ASSOCIATIONS TO MAKE ANY LOANS OR INVESTMENTS PERMITTED TO FEDERAL SAVINGS AND LOAN ASSOCIATIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 54-21.2(b) is hereby rewritten to read as follows:

"(b) Subject to such regulations and limitations as the administrator of the savings and loan division may prescribe, any such association is authorized and permitted to make any loan or investment permitted to be made by any federal savings and loan association by the Congress of the United States, Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation. All investments made by State-chartered savings and loan associations after 1958 and prior to the effective date of this subsection (b) shall for all purposes be considered to have been permitted investments if such investments were permitted to be made by federal savings and loan associations at the time they were made by a State-chartered savings and loan association."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of May, 1975.

S. B. 511 **CHAPTER 411**

AN ACT TO MAKE TECHNICAL AMENDMENTS IN G.S. CHAPTERS 18A AND 105, CONCERNING THE REGULATION OF INTOXICATING LIQUORS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-113.68(3) is hereby rewritten to read as follows:

"(3) 'Fortified wines' shall mean any wine made by fermentation from grapes, fruits, berries, rice or honey to which nothing but pure brandy has been added, which brandy is made from the same type of grape, fruit, berry, rice or honey that is contained in the base wine to which it is added, and having an alcoholic content of over fourteen percent (14%) and not more than twenty-one percent (21%) of absolute alcohol, reckoned by volume; and approved by the State Board of Alcoholic Control as to identity, quality, and purity as provided in Chapter 18A."

Sec. 2. G.S. 18A-2(2) is hereby rewritten to read as follows:

"(2) 'Fortified wines' shall mean any wine made by fermentation from grapes, fruits, berries, rice or honey to which nothing but pure brandy has been added, which brandy is made from the same type of grape, fruit, berry, rice or honey that is contained in the base wine to which it is added and having an alcoholic content of over fourteen percent (14%) and not more than twenty-one percent (21%) of absolute alcohol, reckoned by volume; and is approved by the State Board of Alcoholic Control as to identity, quality, and purity as provided in this Chapter."

Sec. 3. G.S. 18A-18(b) is hereby rewritten to read as follows:

"(b) After deducting the amount required to be expended for enforcement, education and rehabilitation, as herein provided, and retaining sufficient and proper working capital, the amount to be determined by the board, and except as

hereinbefore provided in Chapters 493 and 418 of the Public Laws of 1935, the entire net profits derived from any stores shall be paid quarterly to the General Fund of each respective county wherein county stores are operated."

Sec. 4. G.S. 18A-37 is hereby amended by adding at the end thereof a new paragraph to read as follows:

"No permit issued under this Chapter shall be transferrable. When the ownership of any business to which a permit has been issued changes by merger, consolidation or otherwise, the permit shall automatically be terminated and returned immediately to the State Board of Alcoholic Control.

A change in ownership does not occur simply from the exchange or sale of stock unless a stockholder acquires more than twenty-five percent (25%) of the stock and such acquiring stockholder has not previously held twenty-five percent (25%) of the stock of the corporation."

Sec. 5. G.S. 18A-29 is hereby amended by deleting the words "alcoholic beverages" at each place they appear in the section and inserting in lieu thereof the words "spirituous liquors".

Sec. 6. G.S. 18A-36.1(c) is hereby amended by deleting from lines 3 and 4 thereof the words "subdivisions (1) through (4) of G.S. 18A-29(b)", and inserting in lieu thereof the words "G.S. 18A-41".

Sec. 7. G.S. 18A-41 is hereby amended by deleting the words "unfortified wine" at each place they appear in the section, and inserting in lieu thereof the words "wine (fortified and unfortified)".

Sec. 8. G.S. 18A-42(b) is hereby amended by deleting from the first line thereof the words "and a citizen of the United States" and placing a period after the word "age".

Sec. 9. G.S. 105-113.72 is hereby amended by deleting the words "fortified wines," from line 8 of the first paragraph thereof.

Sec. 10. G.S. 105-113.70 is amended by rewriting the last paragraph thereof to read as follows:

"Nothing in this Article shall be construed to impose any tax upon any resident citizen of this State who makes native wines for the use of himself, his family and his guests from fruits, grapes and berries grown or purchased by him."

Sec. 11. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of May, 1975.

S. B. 538 **CHAPTER 412**

AN ACT TO TRANSFER THE BUREAU OF LABOR FOR THE DEAF FROM THE DEPARTMENT OF LABOR TO THE DEPARTMENT OF HUMAN RESOURCES.

The General Assembly of North Carolina enacts:

Section 1. Article 8 of Chapter 95 of the General Statutes is hereby repealed.

Sec. 2. Chapter 168 of the General Statutes is hereby amended by adding a new Article thereto:

" ARTICLE 2.

"Vocational Rehabilitation.

"§ 168-14. *Vocational rehabilitation services for deaf persons.*—The Department of Human Resources shall promote the employment of deaf persons in this State. The department shall assist deaf persons whose disability limits employment opportunities in obtaining gainful employment commensurate with their abilities and in maintaining such employment.

The department, in furtherance of these objectives, shall maintain statistics regarding trades and occupations in which deaf persons are employed.

The department shall attempt to employ deaf persons in its vocational rehabilitation services for deaf persons and shall have at least one deaf person so employed."

Sec. 3. The intent of this act is to transfer the Bureau of Labor for the Deaf from the Department of Labor to the Department of Human Resources as a Type 1 transfer as defined in G.S. 143A-6(a).

Sec. 4. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 27th day of May, 1975.

H. B. 541 CHAPTER 413

AN ACT TO BE KNOWN AS THE UNIFORM WAGE PAYMENT LAW OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. Definitions for the purposes of this act: (a) The term "employer" means any individual, partnership, association, joint stock company, trust, corporation, administrator or executor of an estate, or the receiver, trustee, successor or assign of the same, employing any person. Provided, that any officer, agent, or supervisory personnel, having or sharing in the management responsibilities of a corporation, who shall knowingly violate any of the provisions of this act shall be considered an employer and held jointly and severally liable with the corporation for said violation.

(b) The term "employee" includes any person suffered or permitted to work by an employer.

(c) The term "wages" means compensation for labor or services rendered by an employee, whether the amount is determined on a time, task, piece, commission, or other basis of calculation.

(d) The term "pay day" shall mean that day designated for payment of wages due by virtue of the employment relationship.

(e) The term "pay period" shall mean a period of seven or 14 calendar days, or a calendar month.

(f) The term "commissioner" means the Commissioner of Labor.

Sec. 2. Application of this act. This act shall apply only to employers and employees subject to the provisions of the North Carolina Minimum Wage Act as amended or as same may be amended.

Sec. 3. Weekly, bi-weekly or monthly pay period. (a) Every employer shall pay all wages due to his employees weekly, bi-weekly, or monthly, on pay days designated in advance by the employer, in lawful money of the United States or with checks on banks convenient to the place of employment where suitable arrangements are made for the cashing of such checks by employees for the full amount of the wages due.

(b) The employee shall receive on the current pay day all wages accruing to said employee, as of the preceding pay period, by virtue of the employment relationship. The employer shall not withhold any wages from the employee as security for the performance of assigned tasks.

(c) Vacation pay, when it is a matter of employment practice or policy, or both, shall be considered wages pursuant to Section 1(c) when due.

Sec. 4. Employees who are separated from the payroll before pay days. (a) When an employer discharges an employee, the employer shall pay the employee's earned wages not later than the next regular pay day.

(b) Whenever an employee voluntarily terminates the employment relationship, the employer shall pay the employee's earned wages not later than the next regular pay day as provided under Section 2 of this act, either through the regular pay channels or by mail if requested by the employee.

(c) When work of an employee is suspended as a result of a labor dispute, or when an employee for any reason whatsoever is laid off, the employer shall pay to such employee not later than the next pay day, as designated under Section 2 of this act, either through the regular pay channels or by mail if requested by the employee, wages earned up to and including the time of actual suspension or layoff.

(d) If an employer fails to pay an employee wages required under subsection (a), (b), or (c) of this section, after the employee makes a demand for payment, such employer shall be additionally liable to the employee for liquidated damages in the amount of ten percent (10%) of the unpaid wages for each day, except Sunday and legal holidays, upon which such failure continues after the day upon which payment was required or in an amount equal to the unpaid wages, whichever is less. Provided that, for the purpose of such liquidated damages, such failure shall not be deemed to continue after the date of the filing of a petition in bankruptcy with respect to the employer if he is adjudicated bankrupt upon such petition.

Sec. 5. Unconditional payment of wages conceded to be due. (a) In case of a dispute over the amount of wages due, the employer shall pay, without condition and within the time set by this act, all wages, or parts thereof, conceded by him to be due, leaving to the employee all remedies he might otherwise be entitled to, including those provided under this act, as to any balance claimed.

(b) The acceptance by an employee of a payment under this section shall not constitute a release as to balance of his claim and any release required by an employer as a condition to payment shall be in violation of this act and shall be null and void.

Sec. 6. Withholding of wages. No employer may withhold or divert any portion of an employee's wages unless:

(a) The employer is required or empowered to do so by State or federal law; or

(b) The employer has a written authorization from the employee for deductions of a lawful purpose accruing to the benefit of the employee as provided in regulations issued by the commissioner; or

(c) The deductions are, pursuant to any rule or regulation, for medical, surgical, or hospital care or service, without financial benefit to the employer and openly, clearly, and in due course recorded in the employer's books.

Sec. 7. Notification, posting, and records. Every employer shall:

(a) Notify his employees in writing, at the time of hiring, of the rate of pay, policies on vacation time and pay, sick leave and comparable matters, and the day, hour and place for payment of wages;

(b) Make available to his employees in writing or through a posted notice maintained in a place accessible to his employees, employment practices and policies with regard to vacation pay, sick leave, and comparable matters;

(c) Notify his employees in writing or through a posted notice maintained in a place accessible to his employees, of any changes in the arrangements specified above prior to the time of such changes;

(d) Furnish each employee with an itemized statement of deductions made from his wages under Section 5 of this act for each pay period such deductions are made;

(e) Keep posted in a place accessible to his employees an abstract of this act furnished by the commissioner; and

(f) Make and preserve such records of the persons employed by him, including wage and hour records, and make such reports therefrom to the commissioner, as the commissioner shall from time to time prescribe by regulations for the purpose of carrying out the provisions of this act.

Sec. 8. Provisions of law may not be waived by agreement. Except as provided in Section 10, no provision of this act may in any way be contravened or set aside by private agreement.

Sec. 9. Enforcement. (a) The commissioner shall enforce and administer the provisions of this act and the commissioner or his authorized representative is empowered to hold hearings and to otherwise investigate charges of violations of this act and to institute actions for penalties hereunder.

(b) The commissioner or his authorized representative is empowered to enter and inspect such places, question such employees, and investigate such facts, conditions, or matters as they may deem appropriate, to determine whether any person has violated any provision of this act or any rule or regulation issued hereunder.

(c) The commissioner or his authorized representatives shall have power to administer oaths and examine witnesses, issue subpoenas, compel the attendance of witnesses and the production of papers, books, accounts, records, payrolls, documents, and to take depositions and affidavits in any proceeding before said commissioner.

(d) At the conclusion of any proceeding before the commissioner or his authorized representative, he shall make findings of fact, conclusions of law, and order appropriate action be taken between the parties involved. If within 15 days after receipt of his order, the parties have failed to comply, the commissioner shall enforce his order by seeking execution in the District Court of North Carolina, Wake County Division.

(e) Appeal procedure. In the case of failure of any person to comply with any subpoena lawfully issued, or on the refusal of any witness to testify to any matter regarding which he may be lawfully interrogated, it shall be the duty of the District Court of North Carolina, on the application by the commissioner filed in Wake County, to compel obedience through a proceeding for contempt, as in the case of disobedience of the requirements of a subpoena issued from such court for a refusal to testify therein.

Sec. 10. Penalties. Any employer who willfully violates any provisions of Sections 2, 3, 5, 6 and 7 of this act or fails to comply with any other requirement

of this act, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00), for each separate offense, or by imprisonment of not more than 30 days, or both in the discretion of the court.

Sec. 11. Employee's remedies. (a) Action by an employee to recover unpaid wages and/or liquidated damages may be maintained in any court of competent jurisdiction by any one or more employees for and in the behalf of himself or themselves, or such employee or employees may designate an agent or representative to maintain such action.

(b) Actions may be maintained by the commissioner under Section 8 herein upon request by the employee made in the form of a complaint filed with the commissioner. The commissioner shall proceed as representative of the employee(s) to recover unpaid wages or enforce compliance with the provisions of this act. The commissioner shall have power to join various claimants in one preferred claim or lien against a single employer.

(c) The court in any action brought under this section shall, in addition to any judgment awarded plaintiff(s) allow costs of the action, including cost or fees of any nature, and reasonable attorney's fees to be paid by the defendant. Such attorney's fees in the case of actions brought under this section by the commissioner, shall be awarded to the State and remitted by the commissioner to the Department of State Treasurer. The commissioner shall not be required to pay the filing fee or other costs or fees of any nature or compile bond or other security of any nature in connection with such action or with proceedings supplementary thereto as a condition precedent to the availability of the commissioner to any process in aid of such action or proceedings.

Sec. 12. Rules and regulations. The commissioner is authorized to issue such rules and regulations as he determines necessary for the purposes of carrying out the provisions of this act.

Sec. 13. Severability of provisions. If any provision of this act, or the application thereof to any person or circumstance, is held invalid by a court of competent jurisdiction, the remainder of the act, and the application of such provisions to other persons or circumstances shall not be invalid thereby.

Sec. 14. This act shall become effective January 1, 1976.

In the General Assembly read three times and ratified, this the 27th day of May, 1975.

H. B. 653 CHAPTER 414

AN ACT TO PROVIDE FOR THE NOMINATION AND ELECTION OF THE MEMBERS OF THE HARNETT COUNTY BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. The Harnett County Board of Education shall consist of five members who shall serve for terms of four years each, and, for purposes of electing the members of said board, Harnett County is divided into five districts bounded and described as follows:

District No. 1, Averasboro Township.

District No. 2, Grove Township and Duke Township.

District No. 3, Neils Creek Township, Blake River Township, Hectors Creek Township and Buckhorn Township.

District No. 4, Lillington Township, Stewarts Creek Township and Anderson Creek Township.

District No. 5, Upper Little River Township, Barbecue Township and Johnsonville Township.

Sec. 2. The term of office of each member shall be for a period of four years beginning on the first Monday in December, next succeeding his election, and shall continue until a successor has been elected and qualified.

Sec. 3. The terms of office of three of the present members of the Harnett County Board of Education, Hoke Smith, C. L. Corbett, and Alex M. Cameron, shall expire the first Monday in December of 1976, or when their successors are elected and qualified.

Sec. 4. In the primary election to be held in 1976, there shall be nominated by each political party in the party primaries at the same time and in the same general manner as that in which other county officers are nominated, three candidates for nomination as members of the Harnett County Board of Education. Each person so nominated from the various districts shall be a resident of his said district and shall file with the County Board of Elections of Harnett County a notice of candidacy which shall give the candidate's name, address, place of residence and a statement that he desires to be a candidate for membership on the said Harnett County Board of Education for the district in which he resides.

The names of the persons so nominated by each political party shall be placed on the official county ballots of Harnett County, and shall be voted upon by the qualified voters of the county at large in the general election of 1976, and the three persons receiving the highest number of votes in the general election shall be elected to membership on the Harnett County Board of Education. Biennially thereafter, individuals who are candidates to succeed the members of the Harnett County Board of Education shall be elected for a term of four years in the same manner as herein provided.

Sec. 5. Any vacancy occurring on the Harnett County Board of Education by death, resignation or otherwise shall be filled for the unexpired term by the Harnett County Board of Education, but the person appointed to fill such vacancy must be from the same district as the person whose death, resignation or removal created the vacancy on the said Harnett County Board of Education. Provided, that when any vacancy occurs on the Harnett County Board of Education, the Board of Education shall cause to be published for four consecutive weeks in a newspaper of general circulation in Harnett County a notice that a vacancy exists on the Harnett County Board of Education and will be filled by the Board of Education on a date certain and stated in the advertisement; and, that the qualified voters of Harnett County are invited to suggest and present to the board of education the names of individuals who should be considered for appointment to the Harnett County Board of Education by the board of education.

Sec. 6. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of May, 1975.

H. B. 726 **CHAPTER 415**

AN ACT TO EXCLUDE A NONPROFIT CONSUMER-OWNED WATER CORPORATION FROM THE DEFINITION OF "PUBLIC UTILITY", AS THAT TERM IS USED IN CHAPTER 62 OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. Article I, Section 62-3(23)d of the General Statutes is hereby amended by deleting after the word "membership" in the third and fourth lines thereof the words "corporations financed by the Farmers Home Administration" and by inserting in lieu thereof the words "or consumer-owned corporations financed by the Farmers Home Administration, the United States Department of Housing and Urban Development, or any similar or successor federal financing agency, provided, that (i) any such financing administration, department or agency exercise substantial control over and regulation of any such corporation's rates and terms and conditions of service, and (ii) the members or consumer-owners of any such corporation, pursuant to the corporation's articles of incorporation and bylaws, shall elect the governing board of the corporation;".

Sec. 2. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 27th day of May, 1975.

H. B. 768 **CHAPTER 416**

AN ACT TO AUTHORIZE THE CITY OF LINCOLNTON TO PURCHASE A PRINTING MACHINE WITHOUT FOLLOWING THE FORMAL BIDDING PROCEDURES.

The General Assembly of North Carolina enacts:

Section 1. The City of Lincolnton is hereby authorized to purchase one 125 IBM Printer, 132 Position Buffering, manufactured by National Cash Register, Incorporated, for a purchase price not to exceed six thousand five hundred dollars ($6,500) without following the formal bidding procedures contained in Article 8, Chapter 143 of the General Statutes of North Carolina and, particularly, without following the procedures contained in G.S. 143-129.

Sec. 2. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 27th day of May, 1975.

H. B. 803 **CHAPTER 417**

AN ACT TO PROVIDE THAT MEMBERS OF THE ALLEGHANY COUNTY BOARD OF EDUCATION SHALL BE ELECTED IN A PARTISAN PRIMARY AND ELECTION.

The General Assembly of North Carolina enacts:

Section 1. Beginning with the primary and general election in 1976 and every two years thereafter, the members of the Alleghany County Board of Education shall be nominated and elected, as the terms of the members expire, in a partisan primary and election, which shall be held at the same time as the regular primary and election for county officers, and shall be held and conducted

pursuant to the provisions contained in Chapter 163 of the General Statutes of North Carolina, regulating primaries and elections.

Sec. 2. The terms of the present members shall be extended or shortened, if necessary, to conform with this act. The terms of the members of the county board of education shall continue to be staggered as presently constituted.

Sec. 3. The Alleghany County Board of Elections shall, upon ratification of this act, notify those incumbents whose terms of office will expire in 1976.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of May, 1975.

H. B. 846 CHAPTER 418

AN ACT TO PROVIDE A SUPPLEMENTAL RETIREMENT FUND FOR FIREMEN IN THE CITY OF WASHINGTON, NORTH CAROLINA, AND TO MODIFY THE APPLICATION OF G.S. 118-5, G.S. 118-6 AND G.S. 118-7 TO THE CITY OF WASHINGTON, NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. Supplemental Retirement Fund Created. The Board of Trustees of the Local Fireman's Relief Fund of the City of Washington, North Carolina, as established in accordance with G.S. 118-6, hereinafter called the board of trustees, shall create and maintain a separate fund, to be called the Washington Fireman's Supplemental Retirement Fund, hereinafter called the Supplemental Retirement Fund, and shall maintain books of account for such fund separate from the books of account of the Local Fireman's Relief Fund of the City of Washington, hereinafter called the Local Relief Fund. The board of trustees shall pay into the Supplemental Retirement Fund the funds prescribed by this act.

Sec. 2. Transfer of Funds and Disbursements. Notwithstanding the provisions of G.S. 118-7, the Board of Trustees of the Local Fireman's Relief Fund of the City of Washington shall:

(a) Prior to July 1, 1975, transfer to the Supplemental Retirement Fund all funds, including earnings on investments, of the Local Relief Fund in excess of ten thousand dollars ($10,000);

(b) As soon as practicable after July 1 of each year divide the sum of the annual funds paid the Local Relief Fund by authority of G.S. 118-5, the income earned in the preceding fiscal year upon investments of funds belonging to the Local Relief Fund and the income earned in the preceding fiscal year upon investments of funds belonging to the Supplemental Retirement Fund into equal amounts and disburse the same as supplemental retirement benefits in accordance with Section 3 of this act;

(c) At any time when the amount of funds in the Local Relief Fund shall by reason of disbursements authorized by G.S. 118-7, be less than ten thousand dollars ($10,000), transfer from the Supplemental Retirement Fund to the Local Relief Fund an amount sufficient to maintain in the Local Relief Fund the sum of ten thousand dollars ($10,000).

Sec. 3. Supplemental Retirement Benefits. (a) Each fireman of the City of Washington who has completed 20 years or more service as a city fireman, volunteer or paid, shall be entitled to and shall receive the following supplemental retirement benefits, until his death, funds permitting:

(1) One share of each full year of service as a full-time and fully-paid fireman of the city;

(2) One share of each full year of service as a volunteer fireman of the City of Washington, North Carolina.

(b) Any fireman of the city who is not otherwise entitled to supplemental retirement benefits under subsection (a) of this section shall nevertheless be entitled to such benefits in any fiscal year in which the board of trustees make the following written findings of fact:

(1) That he initially retired from his position as fireman because of his inability, by reason of sickness or injury, to perform the normal duties of an active fireman; and

(2) That, within 30 days prior to or following his initial retirement as a fireman, at least two physicians licensed to practice medicine in North Carolina certified that he was at such time unable, by reason of sickness or injury, to perform the normal duties of an active fireman.

Sec. 4. Intention. It is the intention of Section 3 of this act to authorize the disbursement as supplemental retirement benefits only income derived in any fiscal year from funds received from Section 2(b). It is the intention of Section 2 of this act to require that the funds paid into the Supplemental Retirement Fund pursuant to subsections (a) and (b) thereof shall be held in trust, and that no funds paid into the Supplemental Retirement Fund pursuant to subsections (a) and (b) thereof or as a gift, grant, bequest, or donation to such fund shall ever be disbursed except as and when required by (c).

Sec. 5. Investment of Funds. The board of trustees is hereby authorized to invest any funds, either of the Local Relief Fund or of the Supplemental Retirement Fund, in any investment named in or authorized by G.S. 159-30, only in accordance with the provisions thereof, and is hereby directed to invest all of the funds of the Supplemental Retirement Fund in one or more of such investments.

Sec. 6. Acceptance of Gifts. The board of trustees is hereby authorized to accept any gift, grant, bequest, or donation of money for the use of the Supplemental Retirement Fund.

Sec. 7. Bond of Treasurer. The board of trustees shall bond the treasurer of the Local Relief Fund with a good and sufficient bond, in an amount at least equal to the amount of funds in his control, payable to the board of trustees, and conditioned upon the faithful performance of his duties; such bond shall be in lieu of the bond required by G.S. 118-6. The board of trustees shall pay from the Local Relief Fund the premiums of the bond of the treasurer.

Sec. 8. Severability. If any provision of this act shall be declared invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions hereof which can be given effect without the invalid provision, and to this end the provisions of this act are declared to be severable.

Sec. 9. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 10. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of May, 1975.

H. B. 848 **CHAPTER 419**

AN ACT TO AMEND THE CHARTER OF THE CITY OF MONROE TO INCREASE THE MEMBERSHIP OF THE CITY COUNCIL AND TO PROVIDE FOR STAGGERED TERMS.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding any provisions of the City Charter to the contrary, the City Council of the City of Monroe shall consist of six councilmen, in addition to the mayor, who shall be elected by the qualified voters of the city for staggered terms of four years.

Beginning with the regular municipal election to be held in October, 1975, six councilmen shall be elected. The three candidates receiving a majority of the votes cast, and the highest number of votes, shall be elected for a term of four years. The three candidates receiving a majority of the votes cast, and the next highest number of votes, shall be elected for a term of two years. Thereafter, as their terms expire, all successors shall be elected for terms of four years.

In the event not as many candidates receive a majority of the votes cast as there are positions to be filled in the 1975 election, then the candidates in the run-off election equal to the number of positions to be filled, who receive the highest number of votes, and the next highest number of votes shall be elected for four- and two-year terms respectively.

Sec. 2. Section 39 of the Charter Amendments and Special Acts Section, Division 2 of the Monroe City Code is hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of May, 1975.

H. B. 869 **CHAPTER 420**

AN ACT TO AMEND G.S. 160A-77 TO CHANGE THE DEADLINE FOR ISSUING THE CITY CODE FOR THE CITY OF WILLIAMSTON.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-77 is hereby amended by deleting from the first sentence of subsection (a) the following: "July 1, 1974" and by inserting in lieu thereof the following: "July 1, 1976".

Sec. 2. This act shall apply only to the City of Williamston.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of May, 1975.

H. B. 902 **CHAPTER 421**

AN ACT TO REPEAL THE DURHAM COUNTY SUNDAY CLOSING LAWS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 406 of the Public-Local Laws of 1923, requiring the Sunday closing of businesses in Durham County, is repealed.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of May, 1975.

H. B. 938 **CHAPTER 422**

AN ACT TO AUTHORIZE THE COUNTY COMMISSIONERS OF MOORE COUNTY TO INCREASE THE PAY OF THE LOCAL REGISTRAR OF VITAL STATISTICS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-65 is hereby amended by adding at the end thereof a proviso to read:

"Provided that in Moore County, the Board of County Commissioners may in its discretion pay the local registrar up to seventy-five cents (75¢) for each certificate or report required to be made, by this Article, to the State Registrar."

Sec. 2. This act shall apply only to Moore County.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of May, 1975.

H. B. 939 **CHAPTER 423**

AN ACT TO AMEND CHAPTER 408 OF SESSION LAWS OF 1971 RELATING TO THE KANNAPOLIS FIREMEN'S SUPPLEMENTAL RETIREMENT FUND.

The General Assembly of North Carolina enacts:

Section 1. Section 3(a) of Chapter 408 of the 1971 Session Laws is hereby amended by striking "one dollar ($1.00)" therefrom and inserting "two dollars ($2.00)" in place thereof.

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of May, 1975.

H. B. 943 **CHAPTER 424**

AN ACT TO PROVIDE FOR A REFERENDUM ON THE QUESTION OF PARTISAN OR NONPARTISAN ELECTIONS IN THE CITY OF CHARLOTTE.

The General Assembly of North Carolina enacts:

Section 1. At the time of the general election for mayor and city council to be held in 1975, a referendum shall also be held in the City of Charlotte on the question of whether the mayor and city council should be elected in a partisan election or a nonpartisan election. The proposition shall be placed on a separate ballot and shall be in the following form:

"FOR Partisan election of the Mayor and City Council of the City of Charlotte

FOR Nonpartisan election of the Mayor and City Council of the City of Charlotte"

If a majority of the votes cast in the referendum are for partisan election of the Mayor and City Council of the City of Charlotte, then subsequent municipal elections for those offices shall be conducted using the partisan primary and election method specified in G.S. 163-291. If a majority of the votes cast in the referendum are for nonpartisan election of the Mayor and City Council of the City of Charlotte, then subsequent municipal elections for those offices shall be conducted using the nonpartisan primary and election method specified in G.S. 163-294, and the provisions of Chapter 841, Session Laws of 1973 (2nd Session, 1974) shall be repealed.

Sec. 2. All other laws and clauses of laws in conflict with this act are repealed to the extent of such conflict.

Sec. 3. This act shall apply to the City of Charlotte only.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of May, 1975.

S. B. 501 **CHAPTER 425**

AN ACT TO AMEND THE NORTH CAROLINA PESTICIDE LAW OF 1971 TO CLARIFY AND SIMPLIFY ITS PROVISIONS CONCERNING REGISTRATION OF PESTICIDES AND LICENSING OF PESTICIDE CONSULTANTS, DEALERS AND APPLICATORS.

The General Assembly of North Carolina enacts:

Section 1. The first sentence of G.S. 143-442(a) is hereby amended by inserting at the end of said sentence, before the period and after the word "annually", the following: "before January 1 for the ensuing calendar year".

Sec. 2. G.S. 143-442 is amended by adding thereto at the end thereof a new subsection (h) to read as follows:

"(h) A pesticide may be registered by the board for experimental use, including use to control wild bird or animal populations where the birds or animals in question have not yet been declared unprotected by the Wildlife Resources Commission, notwithstanding the provisions of G.S. Chapter 113, Article 7."

Sec. 3. G.S. 143-443(b) is amended by renumbering paragraph (2) thereof as paragraph (3), and by inserting therein after paragraph (1) thereof the following additional numbered paragraph (2):

"(2) For any person to use any registered pesticide in a manner inconsistent with its labeling;".

Sec. 4. The second sentence of G.S. 143-449(a) beginning with the words "The basic qualifications" and including numbered paragraphs (1) and (2) is hereby deleted in its entirety.

Sec. 5. G.S. 143-453(a) is hereby amended by inserting the words, "for an aerial pesticide applicator pilot", in the second sentence after the word "qualifications"; by deleting the words "an employee or owner operator" in line 1 of paragraph (1) and substituting therefor the words "a pilot"; by inserting the word "aerial" before the word "pesticide" in line 1 of paragraph (1) and in line 2 of paragraph (1); by substituting a period for the semicolon at the end of paragraph (1); by deleting the word "or" at the end of paragraph (1); by deleting paragraphs (2) and (3) in their entirety; by renumbering paragraph (4) as paragraph (2); by deleting the word "applicators" in line 1 and in line 5 of renumbered paragraph (2) and inserting in lieu thereof the words "applicator pilots"; and by deleting the parentheses around the word "pilot" in lines 4 and 7.

Sec. 6. G.S. 143-451(a) and G.S. 143-456(a) are hereby amended, in line 2 of both said sections, by deleting the words and figures "10 days" and by inserting in lieu thereof the words and figures "30 days".

Sec. 7. G.S. 143-451(a)(8) is hereby amended by inserting in line one thereof, after the word "misrepresentation" and before the word "in", the phrase ", or presented false information,".

Sec. 8. G.S. 143-456(a)(9) is hereby amended by inserting in line 1 thereof, after the word "misrepresentation" and before the word "in" the phrase ", or presented false information,".

Sec. 9. G.S. 143-453(c)(2) is hereby amended to read as follows:

"(2) Provide for license renewal examinations at intervals not more frequent than four years, or more frequently if found by the board to be required to be necessary in order to qualify North Carolina's State pesticide control plan for federal approval."

Sec. 10. G.S. 143-455(b) is hereby amended to read as follows:

"(b) An applicant for a consultant license must present satisfactory evidence to the board concerning his qualifications for such license. The board may classify consultant licenses into one or more classifications or subclassifications based upon types of consulting services performed or to be performed. Such classifications and subclassifications may reflect the crops involved in the consulting service, the discipline or training of consultant, the discretion or lack of discretion involved in the consulting service, and the site or location of the service. Each classification and subclassification may be subject to separate testing procedures and requirements, and may be subject to its own minimum standards of training in specialized subject matter from a recognized college or university, or equivalent specialized consulting experience or training. Qualifications for licensing may be less stringent if the licensee is restricted to making recommendations contained in publications recognized by the board as appropriate for a specific consulting classification or subclassification."

Sec. 11. G.S. 143-460(29) is hereby rewritten to read as follows:

"(29) 'Pesticide applicator' includes any person who owns or manages a pesticide application business which is engaged in the business of applying pesticides upon the lands or properties of another; any public operator; any private golf course operator; any seed treater; any person engaged in demonstration or research pest control; and any other person who acts as a pesticide applicator and is not exempt from this definition. It does not include:

a. Any person who uses or supervises the use of a pesticide (i) only for the purpose of producing an agricultural commodity on property owned or rented by him or his employer, or (ii) only (if applied without compensation other than trading of personal services between producers of agricultural commodities) on the property of another person, or (iii) only for the purposes set forth in (i) and (ii) above.

b. Any person regulated by the North Carolina Structural Pest Control Law (G.S. Chapter 106, Article 4C)."

Sec. 12. This act shall become effective July 1, 1975, except that Section 10 of this act shall become effective on January 1, 1976.

In the General Assembly read three times and ratified, this the 28th day of May, 1975.

S. B. 734 CHAPTER 426

AN ACT TO AMEND G.S. 134-36(3) AND G.S. 153A-221.1 TO INCREASE PERIOD OF DETENTION OF JUVENILES WITHIN JURISDICTION OF DISTRICT COURT TO MAXIMUM OF FIVE DAYS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 134-36(3) as the same appears in the 1974 Supplement to Replacement Volume 3B of the General Statutes is hereby amended on line 2 by deleting the figures and word "72 hours" and inserting in lieu thereof the words "five calendar days".

Sec. 2. G.S. 153A-221.1 as the same appears in the 1974 Supplement to Replacement Volume 3C of the General Statutes is hereby amended in paragraph three, line 2, by deleting the figures and word "72 hours" and inserting in lieu thereof the words "five calendar days".

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of May, 1975.

H. B. 74 CHAPTER 427

AN ACT TO ESTABLISH A HEALTH CARE LIABILITY REINSURANCE EXCHANGE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 58 of the General Statutes of North Carolina is amended by adding a new Article thereto as follows:

"Article 18C.

"North Carolina Health Care Liability Reinsurance Exchange.

"§ 58-173.29. *Declarations and purpose of the Article.*—It is hereby declared by the General Assembly of North Carolina that the availability of health care liability insurance for physicians and surgeons, dentists, nurses, nurse

anesthetists, hospitals and others engaged in the healing practicing arts is necessary for the economic welfare of the State and that without such insurance health care services may be severely curtailed; and that while the need for such insurance is increasing, the supply is not adequate and is likely to become less adequate in the future; and that present plans to provide adequate health care liability insurance in North Carolina have not been sufficient to meet the needs of our citizens. It is further declared that the State has an obligation to provide an equitable method whereby every insurer licensed to write general liability insurance in North Carolina be required to meet this market demand. It is the purpose of this Article to define this obligation and provide a mandatory program to assure an adequate supply of health care liability insurance coverages in the State of North Carolina.

"§ 58-173.30. *Scope.*—This Article shall apply to all kinds of health care liability insurance for physicians and surgeons, dentists, nurses, nurse anesthetists, hospitals and others engaged in the healing practicing arts which is designed to afford protection against liability that may arise from rendering or failing to render services of a professional nature.

"§ 58-173.31. *Construction.*—This Article shall be liberally construed to effect the purposes of this Article which shall constitute aid and guide to interpretation.

"§ 58-173.32. *Definitions.*—As used in this Article:

(1) 'Exchange' means the North Carolina Health Care Liability Reinsurance Exchange established pursuant to the provisions of this Article.

(2) 'Commissioner' means the Commissioner of Insurance of this State.

(3) 'Cede' or 'cession' means the act of transferring the profit or loss of otherwise unacceptable business (to the extent permitted in the plan of operation) from the individual insurer to all insurers through the operation of the Exchange.

(4) 'Eligible risk' means a person who is a resident of this State who holds a valid license to practice or perform in this State a given health care profession as set forth in the license requirements of the Statutory Board issuing said license, and hospitals as defined in G.S. 131-126.1(3), including but not limited to the following categories: physicians, surgeons, dentists, nurses, nurse anesthetists, physiotherapists, medical or X-ray laboratories, chiropractors, chiropodists, optometrists, osteopaths and blood banks, provided, however, that no person shall be deemed an eligible risk if timely payment of premium is not tendered or if there is a valid unsatisfied judgment of record against such person for recovery of amounts due for health care liability insurance premiums and such person has not been discharged from paying said judgment.

(5) 'Company' means each member of the Exchange.

(6) 'Person' means every natural person, firm, partnership, association, corporation or government or agency thereof.

(7) 'Plan of operation' means the plan of operation approved pursuant to the provisions of this Article.

(8) 'Premiums' means direct written premium for all general liability insurance coverages on policyholders in this State (excluding reinsurance assumed and ceded).

(9) 'General liability insurance' means insurance against legal liability of the insured as authorized under G.S. 58-72(13 and 14): excluding insurance against

liability arising out of the ownership, operation, maintenance and use of a motor vehicle as defined in G.S. 20-4.01.

(10) 'Health care liability insurance' means insurance against legal liability of the insured caused by injury arising out of the rendering of, or failure to render, health care services by the insured, or by any person for whose acts or omissions such insured is legally responsible.

"§ 58-173.33. *North Carolina Health Care Liability Reinsurance Exchange; creation; membership.*—(1) There is created a nonprofit unincorporated legal entity to be known as the North Carolina Health Care Liability Reinsurance Exchange consisting of all insurers licensed to write and engaged in writing within this State general liability insurance or any component thereof except town and county mutual insurance associations and assessable mutual companies as authorized by G.S. 58-77(5)b, G.S. 58-77(5)d and G.S. 58-77(7)b. Every such insurer, as a prerequisite to further engaging in writing such insurance in this State, shall be a member of the Exchange and shall be bound by the rules of operation thereof as provided for in this Article and as promulgated by the Board of Governors. No company may withdraw from membership in the Exchange unless it ceases to write general liability insurance in this State or ceases to be licensed to write such insurance.

(2) The Exchange shall be under the immediate supervision of the Commissioner and shall be subject to applicable provisions of the insurance laws of this State.

"§ 58-173.34. *Obligations after termination of membership.*—Any company whose membership in the Exchange has been terminated by withdrawal shall, nevertheless, with respect to its business prior to midnight of the effective date of such termination continue to be governed by this Article.

"§ 58-173.35. *Insolvency.*—Any unsatisfied net liability to the Exchange of any insolvent member shall be assumed by and apportioned among the remaining members in the Exchange in the same manner in which assessments or gain are apportioned by the Exchange. The Exchange shall have all rights allowed by law in behalf of the remaining members against the estate or funds of such insolvent for sums due the Exchange in accordance with this Article.

"§ 58-173.36. *Merger, consolidation or cession.*—When a member has been merged or consolidated into another insurer, or has ceded its entire general liability insurance business in the State to another insurer, such company or its successor in interest shall remain liable for all obligations hereunder and such company and its successor in interest and the other insurers with which it has been merged or consolidated shall continue to participate in the Exchange according to the rules of operation.

"§ 58-173.37. *General obligations of insurers.*—Except as otherwise provided in this Article all insurers as a prerequisite to the further engaging in this State in the writing of general liability insurance or any component thereof shall accept and insure any applicant therefor who is an eligible risk if cession of the particular coverage and coverage limits applied for are permitted in the Exchange. All such insurers shall equitably share the results of any health care liability insurance business ceded to and through the Exchange and shall be bound by the acts of their agents in accordance with the provision of this Article. No insurer shall impose upon any of its agents, solely on account of ceded business received from such agents, any quota or matching requirement for any other insurance as a condition for further acceptance of ceded business

from such agents. Any insurer with obligations under this section may elect with approval of the Exchange to assign the underwriting, issuance of policies, and claim handling to a designated carrier approved by the Board of Governors. Assignment of these functions, however, shall not relieve an insurer of its obligation to share proportionately in the financial operation of the Exchange.

"§ 58-173.38. *General obligations of agents.*—Except as otherwise provided in this Article, no licensed agent of an insurer authorized to solicit and accept premiums for general liability insurance or any component thereof by the company he represents shall refuse on behalf of said company to accept any application from an eligible risk for health care liability insurance and to immediately bind the coverage applied for and for a period of not less than one year if cession of the particular coverage and coverage limits applied for are permitted in the Exchange, provided the application is submitted during the agent's normal business hours, at his customary place of business and in accordance with the agent's customary practices and procedures. The compensation to agents on ceded business shall not be less than the customary compensation paid on business not ceded.

"§ 58-173.39. *The Exchange; functions; administration.*—(a) The operation of the Exchange shall assure the availability of all health care liability insurance coverages to any eligible risk by means of reinsurance and the Exchange shall accept for transfer to the account of all members, the profit or loss of the business ceded in accordance with this Article, the plan of operation adopted pursuant thereto, and any amendments to either.

(b) The Exchange shall reinsure for each coverage available therein to the standard percentage of one hundred percent (100%) as follows: For the following coverages of health care liability insurance and in at least the following amounts of insurance; bodily injury and property damage liability: Per occurrence twenty-five thousand dollars ($25,000), annual aggregate seventy-five thousand dollars ($75,000).

(c) Additional ceding privileges for health care liability insurance shall be provided by the Board of Governors if there is substantial demand for a coverage or coverage limit of any component of health care liability insurance up to the following: Per occurrence one hundred thousand dollars ($100,000), annual aggregate three hundred thousand dollars ($300,000).

(d) Further additional ceding privileges for health care liability insurance shall be provided by the Board of Governors if there is substantial demand for excess coverage of health care liability insurance up to the following: per occurrence one million dollars ($1,000,000), annual aggregate one million dollars ($1,000,000).

(e) The Exchange shall require each member to adjust losses for ceded business fairly and efficiently in the same manner as other insurance losses are adjusted and to effect settlement where settlement is appropriate; however, the Exchange shall provide reasonable means whereby any insurer may elect to assign the underwriting, issuance of policies, and claim handling to a designated carrier approved by the Board of Governors. Assignment of these functions, however, shall not relieve an insurer of its obligation to share proportionately in the financial operation of the Exchange.

(f) The Exchange shall be administered by a Board of Governors. The Board of Governors shall consist of nine members having one vote each from the classifications hereinafter enumerated plus the Commissioner who shall serve *ex*

officio without vote. Each Exchange insurance company member serving on the Board shall be represented by a senior officer of the company. Not more than one company in a group under the same ownership or management shall be represented on the Board at the same time. Five members of the Board shall be selected by the member insurers, which members shall be fairly representative of the industry. To insure representative member insurers, one each shall be selected from the following groups: The American Insurance Association (or its successors), the American Mutual Insurance Alliance (or its successors), the National Association of Independent Insurers (or its successors), all other stock insurers not affiliated with the above groups, and all other nonstock insurers not affiliated with the above groups. The Commissioner of Insurance shall appoint four members of the Board who shall be fire and casualty insurance agents licensed in this State and actively engaged in writing general liability insurance in this State. The Commissioner shall select one agent from among a list of two nominees submitted by the Independent Insurance Agents of North Carolina, Inc., and one agent from among a list of two nominees submitted by the Carolinas Association of Mutual Insurance Agents, North Carolina Division. The initial term of office of said Board members shall be two years. Following completion of initial terms, successors to the members of the original Board of Governors shall be selected to serve three years. All members of the Board of Governors shall serve until their successors are selected and qualified and the Commissioner may fill any vacancy on the Board from any of the aforementioned classifications until such vacancies are filled in accordance with the provisions of this Article.

(g) The Commissioner and member companies shall provide for a Board of Governors within 30 days after ratification of this Article. If any member seat on the initial Board of Governors is not filled in accordance with this Article within such time, then, in that event the Commissioner shall appoint natural persons from any of the classifications specified in subsection (f) of this section to serve the initial term on the Board of Governors. As soon as possible after its selections, the Commissioner shall call for the initial meeting of the Board. After the Board of Governors has been selected it shall then elect from its membership a chairman and shall then meet thereafter as often as the chairman shall require or at the request of three members of the Board of Governors. The chairman shall retain the right to vote on all issues. Five members of the Board of Governors shall constitute a quorum. The same member may not serve as chairman for more than two consecutive years.

(h) The Board of Governors shall have full power and administrative responsibility for the operation of the Exchange. Such administrative responsibility shall include but not be limited to:

(1) Proper establishment and implementation of the Exchange.

(2) Employment of a manager who shall be responsible for the continuous operation of the Exchange and such other employees, officers and committees as it deems necessary.

(3) Provision for appropriate housing and equipment to assure the efficient operations of the Exchange.

(4) Promulgation of reasonable rules and regulations for the administration and operation of the Exchange and delegation to the manager of such authority as it deems necessary to insure the proper administration and operation thereof.

(i) Except as may be delegated specifically to others in the plan of operation or reserved to the members, power and responsibility for the establishment and operation of the Exchange is vested in the Board of Governors, which power and responsibility include but are not limited to the following:

(1) To sue and be sued in the name of the Exchange. No judgment against the Exchange shall create any direct liability to the individual member companies of the Exchange.

(2) To receive and record reinsurance cessions from member companies.

(3) To assess members on the basis of participation ratios established in the plan of operation to cover anticipated or incurred costs of operation and administration of the Exchange at such intervals as are established in the plan of operation.

(4) To contract for goods and services from others to assure the efficient operation of the Exchange.

(5) To hear and determine complaints of any company, agent or other interested party concerning the operation of the Exchange.

(6) To review the market for health care liability insurance throughout North Carolina to make certain that eligible risks can readily obtain such insurance and to provide in the plan of operation a reasonable means for achieving this objective. The Exchange is authorized to require all companies in a fair and equitable manner who are writers of general liability insurance in this State to appoint and license any fire and casualty agent duly licensed to write insurance in North Carolina, in such places where a market need has been demonstrated, to be their agent to write health care liability insurance.

(7) To maintain all loss, expense, and premium data relative to all risks reinsured in the Exchange, and to require each member to furnish such statistics relative to insurance reinsured by the Exchange and statistics on such insurance not reinsured in the Exchange at such times and in such form and detail as may be required.

(8) To establish fair and reasonable procedures for the sharing among the members of profit and loss on Exchange business and other costs, charges, expenses, liabilities, income, property and other assets of the Exchange and for assessing or distributing to members their appropriate shares. Such shares may be based on the member's direct written premium for general liability insurance or by any other fair and reasonable method.

(9) To receive or distribute all sums required by the operation of the Exchange.

(10) To accept all risks submitted from the companies in accordance with this Article.

(11) To establish procedures for reviewing claims practices of member companies to the end that claims to the account of the Exchange will be handled fairly and efficiently.

(12) To adopt and enforce all rules and to do anything else where the Board is not elsewhere herein specifically empowered which is otherwise necessary to accomplish the purpose of the Exchange and is not in conflict with the other provisions of this Article.

(j) Each member company shall authorize the Exchange to audit that part of the company's business which is written subject to the Exchange in a manner and time prescribed by the Board of Governors.

(k) The Board of Governors shall fix a date for an annual meeting and shall annually meet on that date. Twenty days' notice of such meeting shall be given in writing to all members of the Board of Governors.

(l) There shall be furnished to each member an annual report of the operation of the Exchange in such form and detail as may be determined by the Board of Governors.

(m) Each member shall furnish statistics in connection with insurance subject to the Exchange as may be required by the Exchange. Such statistics shall be furnished at such time and in such form and detail as may be required but at least will include premiums, charges, expenses and losses.

"§ 58-173.40. *Plan of operation.*—(a) Within 60 days after the initial organizational meeting, the Exchange shall submit to the Commissioner, for his approval, a proposed plan of operation, consistent with the provisions of this Article, which shall provide for economical, fair and nondiscriminating administration and for the prompt and efficient provision on health care liability insurance to eligible risks. Should no plan be submitted within the aforesaid 60-day period, then the Commissioner of Insurance shall formulate and place into effect a plan consistent with the provisions of this Article.

(b) The plan of operation, unless sooner approved in writing, shall be deemed to meet the requirements of the Article if it is not disapproved by order of the Commissioner within 30 days from the date of filing. Prior to the disapproval of all or any part of the proposed plan of operation the Commissioner shall notify the Exchange in what respect the plan of operation fails to meet the specific requirements of this Article. The Exchange shall, within 30 days thereafter, submit for his approval a revised plan of operation which meets the specific requirements of this Article. In the event the Exchange fails to submit a revised plan of operation which meets the specific requirements of this Article within the aforesaid 30-day period, the Commissioner of Insurance shall enter an order accordingly and shall immediately thereafter formulate and place into effect a plan consistent with the provisions of this Article.

(c) Any revision of the proposed plan of operation or any subsequent amendments to an approved plan of operation shall be subject to approval or disapproval by the Commissioner in the manner herein provided in subsection (b) with respect to the initial plan of operation.

(d) Any order of the Commissioner with respect to the plan of operation or any revision of (or) amendment thereof shall be subject to court review as provided in G.S. 58-9.3.

(e) Upon approval of the Commissioner of the plan so submitted or the promulgation of a plan deemed approved by the Commissioner, all insurance companies licensed to write general liability insurance in this State or any component thereof as a prerequisite to further engaging in writing such insurance shall formally subscribe to and participate in the plan so approved.

The plan of operation shall provide for, among other matters, the establishment of necessary facilities, the management of the Exchange, the preliminary assessment of all members for initial expenses necessary to commence operations, the assessment of members to defray losses and expenses, the distribution of gains, the standard amount one hundred percent (100%) of

coverage afforded on eligible risks which a member company may cede to the Exchange, and the procedure by which reinsurance shall be accepted by the Exchange; and establish procedure for receiving and maintaining separate statistics on all health care liability insurance written by each member company; and shall further provide that:

(1) Members of the Board of Governors shall receive reimbursement from the Exchange for their actual and necessary expenses incurred on Exchange business, en route to perform Exchange business, and while returning from Exchange business plus a per diem allowance of twenty-five dollars ($25.00) a day which may be waived.

(2) In order to obtain a transfer of business to the Exchange effective when the binder or policy or renewal thereof first becomes effective, the company must within 30 days of the binding or policy effective date notify the Exchange of the identification of the insured, the coverage and limits afforded, classification data, and premium. The Exchange shall accept risks at other times on receipt of necessary information, but such acceptance shall not be retroactive. The Exchange shall accept renewal business after the member on underwriting review elects to again cede the business.

"§ 58-173.41. *No limit on cessions - compulsory cessions.*—Upon receipt by the company of a risk which it does not elect to retain, the company shall follow such procedures for ceding the risk as are established by the plan of operation. A company may cede to the Exchange one hundred percent (100%) of its health care liability insurance business in North Carolina. In order to prevent significant adverse selection resulting from cessions to the Exchange, the Board of Governors upon a finding of significant adverse selection shall require one hundred percent (100%) ceding by all members of the coverages on any of the separate eligible risk categories enumerated in G.S. 58-173.32(4). There shall be a presumption that significant adverse selection exists if for any period of one year or more the result from dividing the losses incurred by the premiums earned on business ceded to the Exchange is in excess of one hundred and five percent (105%) of the result of dividing the losses incurred by the premiums earned on business retained by the members.

"§ 58-173.42. *Approval of rates.*—The premium rates that may be charged on all health care liability insurance, including premiums ceded to the health care liability reinsurance exchange established by this Article, shall be established from time to time by the Commissioner of Insurance on the basis of the latest available statistical data submitted by rating bureaus or insurers authorized to write general liability insurance in this State. Every rating bureau authorized to engage in rate making or insurer licensed in this State to write general liability insurance coverages may submit proposed changes in rates or classifications to the extent necessary to produce rates and classifications which are reasonable, adequate, not unfairly discriminatory and in the public interest, or the Commissioner upon his own motion, may upon the latest available statistical data, order a reduction or increase in rates. Any premium rate change shall be established by the commissioner only after due notice and hearing as provided in G.S. 58-9.2 and with full rights of appeal as provided in G.S. 58-9.4. The rate so established by the commissioner shall be reasonable, adequate, not excessive, not unfairly discriminatory and in the public interest. Such rates shall not be deemed unreasonable, inadequate, excessive, unfairly discriminatory or not in

the public interest if they are adequate to defray the total cost of the Exchange System and if they make adequate provision for premium rates for the future which will provide for anticipated losses, anticipated loss adjustment expenses, other anticipated expenses attributable to the selling and servicing of this line of insurance, and a fair and reasonable underwriting profit. The determination of a fair and reasonable underwriting profit shall take into consideration earnings from the investment of unearned premium reserves and loss reserves on North Carolina business. Every rating method, schedule, classification, submitted to the commissioner for approval shall be deemed approved, if the commissioner within 60 days after submission, has not issued a notice of hearing on the matter.

"§ 58-173.43. *Termination of insurance.*—No member may terminate insurance to the extent that cession of a particular type of coverage and limits is available under the provision of this Article except for the following reasons:

(1) Nonpayment of premium when due to the insurer or producing agent.

(2) The named insured has become a nonresident of this State and would not otherwise be entitled to insurance on submission of new application under this Article.

(3) The license of a named insured to practice his profession is in a state of suspension or has been revoked.

"§ 58-173.44. *Hearings; review.*—(a) Any applicant for a policy from any carrier, any person insured under such a policy, any member of the Exchange and any agent duly licensed to write health care liability insurance, may request a formal hearing and ruling by the Board of Governors of the Exchange on any alleged violation of or failure to comply with the plan of operation or the provisions of this Article or any alleged improper act or ruling of or in the case of a member directly affecting him as to coverage or premium or in the case of a member directly affecting its assessment, and in the case of an agent, any matter affecting his appointment to a carrier or his account therewith. The request for hearing must be made within 15 days after the date of the alleged violation or improper act or ruling. The hearing shall be held within 15 days after the receipt of the request. The hearing may be held by any panel of the Board of Governors consisting of not less than three members thereof, and the ruling of a majority of the panel shall be deemed to be the ruling of the Board, unless the full Board on its own motion shall modify or rescind the action of the panel.

(b) Any formal ruling by the Board of Governors may be appealed to the Commissioner by filing notice of appeal with the Exchange and Commissioner within 30 days after issuance of the ruling.

(c) The Commissioner shall hear the matter de novo and issue an order approving the action or decision, disapproving the action or decision, or directing the Board of Governors to act in accordance with the ruling of the Commissioner.

(d) Any aggrieved person or organization, any member of the Exchange or the Exchange may request a public hearing and ruling by the Commissioner on the provisions of the plan of operation, rules, regulations or policy forms approved by the Commissioner. The request for hearing shall specify the matter or matters to be considered. The hearing shall be held within 30 days after receipt of the request. The Commissioner shall give public notice of the hearing and the matter or matters to be considered not less than 15 days in advance of the hearing date.

(e) In any hearing held pursuant to this section by the Board of Governors or the Commissioner, the Board or the Commissioner, as the case may be, shall issue a ruling or order within 30 days after the close of the hearing.

(f) All rulings or orders of the Commissioner under this section shall be subject to judicial review as provided in Article 2 of Chapter 58 of the General Statutes.

"§ 58-173.45. *Examination of the Exchange annual report.*—The Exchange shall be subject to examination and regulation by the Commissioner. The Board of Governors shall submit to the Commissioner, not later than March 30 of each year, a financial report for the preceding calendar year in a form approved by the Commissioner and a report of its activities during the preceding calendar year.

"§ 58-173.46. *Tax exemptions.*—The Exchange shall be exempt from payment of all fees and all taxes levied by this State or any of its subdivisions, except ad valorem taxes.

Sec. 2. Severability. If any provision or part of this Article or application thereof is held invalid, the invalidity shall not affect other provisions, parts or application of the Article which can be given effect without the invalid provisions or application, and to this end the provisions of this Article are severable.

Sec. 3. This act shall be in full force and effect upon its ratification.

In the General Assembly read three times and ratified, this the 28th day of May, 1975.

H. B. 589 CHAPTER 428

AN ACT TO PROVIDE A FEE FOR THE FILING OF REINSTATEMENTS OF ARTICLES OF INCORPORATION.

The General Assembly of North Carolina enacts:

Section 1. Section 161-10(a) of the North Carolina General Statutes is amended by adding a new subsection (17) to read as follows:

"(17) Reinstatements of articles of incorporation. For filing reinstatements of articles of incorporation prepared pursuant to G.S. 105-232—two dollars ($2.00). The fee shall be paid by the corporation affected."

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 28th day of May, 1975.

H. B. 754 CHAPTER 429

AN ACT TO AMEND CHAPTER 280 OF THE PRIVATE LAWS OF 1905 SO AS TO AMEND THE CHARTER OF THE CLIFFSIDE RAILROAD COMPANY.

The General Assembly of North Carolina enacts:

Section 1. Section 9 of Chapter 280 of the Private Laws of 1905 is hereby amended by striking the current Section 9 and inserting in lieu thereof a new Section 9 as set forth below:

"Sec. 9. The board of directors shall consist of such members as the stockholders may prescribe from time to time by the bylaws. Directors need not be stockholders of said company nor residents of North Carolina. The directors shall be elected at the stockholders' annual meeting, which is to be held on such

days as the bylaws of the company shall direct, and they shall continue in office for the term of one year from and after the date of their election and until their successors are elected and accept the duties of office. The board of directors shall choose one of their number as president, and in case of death, resignation or incapacity of any member of the board of directors during his term of office the said board of directors shall choose his successor for the unexpired term."

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 28th day of May, 1975.

H. B. 831 CHAPTER 430

AN ACT TO ADJUST DEPARTMENT OF MOTOR VEHICLES' REGISTRATION FEES TO RECOVER COST.

The General assembly of North Carolina enacts:

Section 1. G.S. 20-85 as the same appears in Volume 1C of the General Statutes is hereby rewritten to read as follows:

"§ 20-85. *Schedule of fees.*—There shall be paid to the Department for the issuance of certificates of title, transfer of registration and replacement of registration plates fees according to the following schedules:

(1)	Each application for certificate of title	$2.00
(2)	Each application for duplicate or corrected certificate of title	2.00
(3)	Each application of repossessor for certificate of title	2.00
(4)	Each transfer of registration	2.00
(5)	Each set of replacement registration plates	2.00
(6)	Each application for duplicate registration certificate	.50
(7)	Each application for recording supplementary lien	2.00
(8)	Each application for removing a lien from a certificate of title	2.00

The fees collected under subdivisions (7) and (8) of this section shall be placed in a special fund designated the 'Lien Recording Fund' and shall be used under the direction and supervision of the Assistant Director of the Budget for the administration of the laws of this State relating to the perfection of security interest in vehicles."

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 28th day of May, 1975.

H. B. 832 **CHAPTER 431**

AN ACT TO ADJUST DRIVER TRAINING AND SAFETY EDUCATION FUND FEE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-88.1 as the same appears in Volume 1C of the General Statutes is hereby rewritten to read as follows:

"§ 20-88.1. *Driver Training and Safety Education Fund.*—Beginning July 1, 1958, each and every passenger or property-carrying vehicle registering with the Department of Motor Vehicles, for which the registration tax is now being paid as provided in this Chapter, shall pay an annual registration tax of two dollars ($2.00) in addition to all other amounts provided in this Chapter. The revenue derived from the additional tax of two dollars ($2.00) shall be placed in a separate fund to finance a program of driver training and safety education at the public high schools of the State, and the amounts so collected shall be transferred periodically to the account of the State Board of Education. In accordance with criteria and standards approved by the State Board of Education, the State Superintendent of Public Instruction shall organize and administer a program of driver education to be offered at the public high schools of the State for all persons of provisional license age. Such courses as shall be developed shall be made available to all physically and mentally qualified persons of provisional license age, including public school students, nonpublic school students and out-of-school youths under 18 years of age. In addition to the revenue derived from the annual additional registration tax of two dollars ($2.00), the State Board of Education shall use for such purpose all funds appropriated to it for said purpose, and may use all other funds which may become available for its use for said purpose."

Sec. 2. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 28th day of May, 1975.

H. B. 858 **CHAPTER 432**

AN ACT TO ASSESS AN ADDITIONAL FEE OF TEN DOLLARS ($10.00) FOR SPECIAL LICENSE PLATES ISSUED TO OFFICIALS OF THE JUDICIAL, LEGISLATIVE, AND ADMINISTRATIVE BRANCHES OF STATE GOVERNMENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-81 is hereby rewritten to read as follows:

"§ 20-81. *Official license plates.*—(a) License plates issued to State officials by the Division of Motor Vehicles of the Department of Transportation, upon which are inscribed any special numbering or designation different from the numbering and designation inscribed upon plates issued to the general public pursuant to G.S. 20-63, shall be assessed a fee of ten dollars ($10.00), in addition to any fees charged under G.S. 20-87 and G.S. 20-88. These plates shall be subject to the same transfer provisions as provided in G.S. 20-64.

(b) The revenue derived from the additional fee for such plates shall be placed in a separate fund designated the 'Official's Registration Plate Fund'. After deducting the costs of the plates, plus budgetary requirements for handling and issuance, to be determined by the Commissioner of Motor Vehicles, any

remaining monies derived from the additional fee for such plates shall be periodically transferred in accordance with G.S. 20-81.3(c)."

Sec. 2. This act shall become effective on January 1, 1976.

In the General Assembly read three times and ratified, this the 28th day of May, 1975.

H. B. 946 CHAPTER 433

AN ACT RELATING TO CERTAIN DRAINAGE FLOOD CONTROL AND OPEN SPACE PROJECTS AND TO THE EXERCISE OF THE POWER OF EMINENT DOMAIN IN MECKLENBURG COUNTY.

The General Assembly of North Carolina enacts:

Section 1. In addition to any power conferred by any other general law or local act and in addition to the power of eminent domain conferred by G.S. 153A-159 and G.S. 153A-274, the County of Mecklenburg is hereby granted the power of eminent domain and is authorized and empowered to acquire by condemnation the fee or any lesser interest in property for the purposes of establishing, extending, enlarging, or improving the drainage, flood control and open space projects listed in Section 2 of this act, and said projects are to be considered public enterprises for purposes of this act. In exercising the power of eminent domain for the purposes specified in this section, the County of Mecklenburg may in its discretion use the procedures of Chapter 40, Article 2; or the procedures of Chapter 160A, Article 11; or the procedures of Chapter 136, Article 9; or the procedures of any other general law or local act applicable to the County of Mecklenburg; Provided, however, that nothing herein shall be construed to enlarge the power of the Board of Commissioners of Mecklenburg County to condemn property already devoted to public use.

Sec. 2. This act and the power conferred upon the County of Mecklenburg under this act shall apply to:

a. The McAlpine Greenway Project extending from N.C. Hwy. 74 (Independence Boulevard), on the north and to Sardis Road on the south, and

b. Drainage and flood control projects along creeks and water courses in Mecklenburg County.

Sec. 3. The power conferred upon the County of Mecklenburg under Section 1 of this act shall not be exercised by said county in soil and water conservation projects undertaken pursuant to the authority set forth in Chapter 139 of the General Statutes of North Carolina, or pursuant to the authority set forth in the Watershed Protection and Flood Prevention Act, P.L. 566, 83d Cong., 68 Stat. 666, as amended.

Sec. 4. This act shall apply only to the County of Mecklenburg.

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of May, 1975.

S. B. 151

CHAPTER 434

AN ACT TO ESTABLISH POLICY FOR STATE AGENCIES TO PERFORM ENERGY CONSUMPTION ANALYSES ON MAJOR CONSTRUCTION OR RENOVATION OF BUILDINGS.

The General Assembly of North Carolina enacts:

Section 1. (a) The General Assembly hereby finds:

(1) that State-owned and assisted facilities have a significant impact on the State's consumption of energy;

(2) that energy conservation practices adopted for the design, construction, and utilization of these facilities will have a beneficial effect on the State's overall supply of energy;

(3) that the cost of the energy consumed by these facilities over the life of the facilities must be considered, in addition to the initial cost of constructing such facilities; and

(4) that the cost of energy is significant and facility designs must take into consideration the total life-cycle cost, including the initial construction cost, and the cost, over the economic life of the facility, of the energy consumed, and of operation and maintenance of the facility as it affects energy consumption.

(b) The General Assembly declares that it is the policy of the State of North Carolina to insure that energy conservation practices are employed in the design of State-owned and assisted facilities. To this end the General Assembly encourages State agencies to analyze the cost of energy consumption of each facility constructed or each major facility constructed or renovated, over its economic life, in addition to the initial construction or renovation cost.

Sec. 2. For purposes of this act:

(a) The term "State agency" means the State of North Carolina or any board, bureau, commission, institution, or other agency of the State, or any board or governing body of a political subdivision of the State, or an agency, commission, or authority of a political subdivision of the State.

(b) The term "facility" means any building or facility on which construction is initiated six months or more after the effective date of this act.

(c) The term "major facility" means any building or facility of 40,000 or more gross square feet on which construction or renovation is initiated six months or more after the effective date of this act, and wherein significant energy demands will exist.

(d) The term "State facility" or "major State facility" means a facility constructed, or a major facility constructed or renovated, by a State agency.

(e) The term "State-assisted facility" or "major State-assisted facility" means a facility constructed, or major facility constructed or renovated, in whole or in part with State funds or with funds guaranteed or insured by a State agency.

(f) The term "initial cost" means the required cost necessary to construct a facility or construct or renovate a major facility.

(g) The term "economic life" means the projected or anticipated useful life of a facility.

(h) The term "life-cycle cost" means the cost of a facility including its initial cost, and the cost, over the economic life of the facility, of the energy consumed and of operation and maintenance of the facility as it affects energy consumption.

(i) The term "energy consumption analysis" means the evaluation of all energy consuming systems and components by demand and type of energy, including the internal energy load imposed on a facility by its occupants, equipment and components, and the external energy load imposed on the facility by climatic conditions.

Sec. 3. (a) The General Assembly authorizes and directs that State agencies shall carry out the construction of State facilities, and the construction and renovation of major State facilities, under their jurisdiction or programs for the construction of State-assisted facilities and the construction and renovation of major State-assisted facilities in such a manner as to further the policy declared herein, insuring that life-cycle cost analyses and energy conservation practices are employed in new State-owned and assisted facilities and in new or renovated major State-owned and assisted facilities.

(b) Each State agency having jurisdiction over any State-owned or assisted facilities' construction program shall evaluate each project, and if consistent with good architectural, engineering, and economic practice, require life-cycle cost analysis. Nothing in this act shall deprive or limit any State agency which has review authority over design or construction plans from requiring a life-cycle cost analysis.

(c) This life-cycle cost analysis shall include but not be limited to such elements as:

(1) the coordination, orientation and positioning of the facility on its physical site;

(2) the amount and type of fenestration employed in the facility;

(3) thermal characteristics of materials, and the amount of insulation incorporated into the facility design;

(4) the variable occupancy and operating conditions of the facility, including illumination levels;

(5) architectural features which affect energy consumption; and

(6) an energy consumption analysis of the major facility's heating, ventilating, and air-conditioning system, lighting system, and all other energy-consuming systems. The energy consumption analysis of the operation of energy-consuming systems in the major facility should include but not be limited to:

a. the comparison of two or more system alternatives;

b. the simulation or engineering evaluation of each system over the entire range of operation of the major facility for a year's operating period; and

c. the engineering evaluation of the energy consumption of component equipment in each system considering the operation of such components at other than full or rated outputs.

(d) The life-cycle cost analysis performed for each major facility shall provide but not be limited to the following information:

(1) the initial estimated cost of each energy-consuming system being compared and evaluated;

(2) the estimated annual operating cost of all utility requirements;

(3) the estimated annual cost of maintaining each energy-consuming system; and

(4) the average estimated replacement cost for each system expressed in annual terms for the economic life of the major facility.

(e) The life-cycle cost analysis shall be certified by a registered architect or registered professional engineer, or by both architect and engineer, particularly qualified by training and experience for the type of work involved, and in conformance with the provisions of G.S. 133-1.1.

(f) Provided, however, that in order to protect the integrity of historic buildings, no provision of this Chapter shall be interpreted to require such analysis with respect to any property eligible for, nominated to, or entered on the National Register of Historic Places, pursuant to the National Historic Preservation Act of 1966, P.L. 89-665; any historic building located within an historic district as provided in Chapters 160A or 153A of the North Carolina General Statutes; any historic building listed, owned, or under the jurisdiction of an historic properties commission as provided in G.S. Chapters 160A or 153A; nor any State-owned or State-assisted historic property.

(g) Selection of the optimum system or combination of systems to be incorporated into the design of the major facility shall be based on the life-cycle cost analysis over the economic life of the facility.

Sec. 4. The chief executives of all State agencies, as defined in this act, shall be responsible for dissemination and effective performance of the policy established herein.

Sec. 5. The provisions of this act shall not apply to municipalities or counties, nor to any agency or department of any municipality or county.

Sec. 6. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 29th day of May, 1975.

S. B. 506 **CHAPTER 435**

AN ACT TO AMEND CHAPTERS 160A AND 153A OF THE GENERAL STATUTES TO AUTHORIZE CITIES AND COUNTIES TO ENGAGE IN COMMUNITY DEVELOPMENT PROGRAMS AND ACTIVITIES.

The General Assembly of North Carolina enacts:

Section 1. Article 19 of Chapter 160A of the General Statutes is amended by inserting a new Part 8 as follows:

"Part 8. Community Development.

"§ 160A-456. *Community development programs and activities.*—(a) Any city is authorized to engage in, to accept federal and State grants and loans for, and to appropriate and expend funds for community development programs and activities. In undertaking community development programs and activities, in addition to other authority granted by law, a city may engage in the following activities: (1) programs of assistance and financing of rehabilitation of private buildings principally for the benefit of low and moderate income persons, or for the restoration or preservation of older neighborhoods or properties, including direct repair, the making of grants or loans, the subsidization of interest payments on loans, and the guaranty of loans; (2) programs concerned with employment, economic development, crime prevention, child care, health, drug abuse, education, and welfare needs of persons of low and moderate income.

(b) Any city council may exercise directly those powers granted by law to municipal redevelopment commissions and those powers granted by law to municipal housing authorities. Any city council desiring to do so may delegate to any redevelopment commission or to any housing authority the responsibility

of undertaking or carrying out any specified community development activities. Any city council and any board of county commissioners may by agreement undertake or carry out for each other any specified community development activities. Any city council may contract with any person, association, or corporation in undertaking any specified community development activities. Any county or city board of health, county board of social services, or county or city board of education, may by agreement undertake or carry out for any city council any specified community development activities.

(c) Any city council undertaking community development programs or activities may create one or more advisory committees to advise it and to make recommendations concerning such programs or activities.

(d) Any city council proposing to undertake any loan guaranty or similar program for rehabilitation of private buildings is authorized to submit to its voters the question whether such program shall be undertaken, such referendum to be conducted pursuant to the general and local laws applicable to special elections in such city.

(e) No taxes shall be appropriated or expended by a city pursuant to this section for any purpose not expressly authorized by G.S. 160A-209, unless the same is first submitted to a vote of the people as therein provided."

Sec. 2. Article 18 of Chapter 153A of the General Statutes is amended by inserting a new Part 5 as follows:

"Part 5. Community Development.

"§ 153A-376. *Community development programs and activities.*—(a) Any county is authorized to engage in, to accept federal and State grants and loans for, and to appropriate and expend funds for community development programs and activities. In undertaking community development programs and activities, in addition to other authority granted by law, a county may engage in the following activities:

(1) programs of assistance and financing of rehabilitation of private buildings principally for the benefit of low and moderate income persons, or for the restoration or preservation of older neighborhoods or properties, including direct repair, the making of grants or loans, the subsidization of interest payments on loans, and the guaranty of loans;

(2) programs concerned with employment, economic development, crime prevention, child care, health, drug abuse, education, and welfare needs of persons of low and moderate income.

(b) Any board of county commissioners may exercise directly those powers granted by law to county redevelopment commissions and those powers granted by law to county housing authorities. Any board of county commissioners desiring to do so may delegate to redevelopment commission or to any housing authority the responsibility of undertaking or carrying out any specified community development activities. Any board of county commissioners and any municipal governing body may by agreement undertake or carry out for each other any specified community development activities. Any board of county commissioners may contract with any person, association, or corporation in undertaking any specified community development activities. Any county or city board of health, county board of social services, or county or city board of education, may by agreement undertake or carry out for any board of county commissioners any specified community development activities.

(c) Any board of county commissioners undertaking community development programs or activities may create one or more advisory committees to advise it and to make recommendations concerning such programs or activities.

(d) Any board of county commissioners proposing to undertake any loan guaranty or similar program for rehabilitation of private buildings is authorized to submit to its voters the question whether such program shall be undertaken, such referendum to be conducted pursuant to the general and local laws applicable to special elections in such county.

(e) No taxes shall be appropriated or expended by a county pursuant to this section for any purpose not expressly authorized by G.S. 153A-149, unless the same is first submitted to a vote of the people as therein provided."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of May, 1975.

S. B. 616 **CHAPTER 436**

AN ACT TO REWRITE G.S. 116-143.1 CONCERNING RESIDENCE FOR TUITION PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 116-143.1 is hereby rewritten to read as follows:

"§ 116-143.1. *Provisions for determining resident status for tuition purposes.*—(a) As defined under this section:

(1) A 'legal resident' or 'resident' is a person who qualifies as a domiciliary of North Carolina; a 'non-resident' is a person who does not qualify as a domiciliary of North Carolina.

(2) A 'resident for tuition purposes' is a person who qualifies for the in-State tuition rate; a 'non-resident for tuition purposes' is a person who does not qualify for the in-State tuition rate.

(3) 'Institution of higher education' means any of the constituent institutions of The University of North Carolina and the community colleges and technical institutes under the jurisdiction of the North Carolina State Board of Education.

(b) To qualify as a resident for tuition purposes, a person must have established legal residence (domicile) in North Carolina and maintained that legal residence for at least 12 months immediately prior to his or her classification as a resident for tuition purposes. Every applicant for admission shall be required to make a statement as to his length of residence in the State.

(c) To be eligible for classification as a resident for tuition purposes, a person must establish that his or her presence in the State currently is, and during the requisite 12-month qualifying period was, for purposes of maintaining a bona fide domicile rather than of maintaining a mere temporary residence or abode incident to enrollment in an institution of higher education.

(d) An individual shall not be classified as a resident for tuition purposes and, thus, not rendered eligible to receive the in-State tuition rate, until he or she has provided such evidence related to legal residence and its duration as may be required by officials of the institution of higher education from which the individual seeks the in-State tuition rate.

(e) When an individual presents evidence that the individual has living parent(s) or court-appointed guardian of the person, the legal residence of such

parent(s) or guardian shall be prima facie evidence of the individual's legal residence, which may be reinforced or rebutted relative to the age and general circumstances of the individual by the other evidence of legal residence required of or presented by the individual; provided, that the legal residence of an individual whose parents are domiciled outside this State shall not be prima facie evidence of the individual's legal residence if the individual has lived in this State the five consecutive years prior to enrolling or re-registering at the institution of higher education at which resident status for tuition purposes is sought.

(f) In making domiciliary determinations related to the classification of persons as residents or non-residents for tuition purposes, the domicile of a married person, irrespective of sex, shall be determined, as in the case of an unmarried person, by reference to all relevant evidence of domiciliary intent. For purposes of this section:

(1) No person shall be precluded, solely by reason of marriage to a person domiciled outside North Carolina, from establishing or maintaining legal residence in North Carolina and subsequently qualifying or continuing to qualify as a resident for tuition purposes;

(2) No person shall be deemed, solely by reason of marriage to a person domiciled in North Carolina, to have established or maintained a legal residence in North Carolina and subsequently to have qualified or continued to qualify as a resident for tuition purposes;

(3) In determining the domicile of a married person, irrespective of sex, the fact of marriage and the place of domicile of his or her spouse shall be deemed relevant evidence to be considered in ascertaining domiciliary intent.

(g) Any non-resident person, irrespective of sex, who marries a legal resident of this State or marries one who later becomes a legal resident, may, upon becoming a legal resident of this State, accede to the benefit of the spouse's immediately precedent duration as a legal resident for purposes of satisfying the 12-month durational requirement of this section.

(h) No person shall lose his or her resident status for tuition purposes solely by reason of serving in the armed forces outside this State.

(i) A person who, having acquired bona fide legal residence in North Carolina, has been classified as a resident for tuition purposes but who, while enrolled in a State institution of higher education, loses North Carolina legal residence, shall continue to enjoy the in-State tuition rate for a statutory grace period. This grace period shall be measured from the date on which the culminating circumstances arose that caused loss of legal residence and shall continue for 12 months; provided, that a resident's marriage to a person domiciled outside of North Carolina shall not be deemed a culminating circumstance even when said resident's spouse continues to be domiciled outside of North Carolina; and provided, further, that if the 12-month period ends during a semester or academic term in which such a former resident is enrolled at a State institution of higher education, such grace period shall extend, in addition, to the end of that semester or academic term."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of May, 1975.

H. B. 47

CHAPTER 437

AN ACT TO BE KNOWN AS THE SCHOOL BUDGET AND FISCAL CONTROL ACT.

The General Assembly of North Carolina enacts:

Section 1. Articles 9 and 10 of Chapter 115 of the General Statutes, comprising G.S. 115-78 through G.S. 115-100, are repealed, and a new Article 9 is inserted in Chapter 115 of the General Statutes as follows:

"Article 9.

"The School Budget and Fiscal Control Act.

"Part 1. General Provisions.

"§ 115-78. *Short title.*—This Article may be cited as 'The School Budget and Fiscal Control Act.'

"§ 115-79. *Definitions.*—The words and phrases defined in this section have the meanings indicated when used in this Article, unless the context clearly requires another meaning:

(1) 'Administrative unit' includes both county and city school administrative units.

(2) 'Board of education' is the governing body of an administrative unit.

(3) 'Budget' is a plan proposed by a board of education for raising and spending money for specified school programs, functions, activities, or objectives during a fiscal year.

(4) 'Budget resolution' is a resolution adopted by a board of education that appropriates revenues for specified school programs, functions, activities, or objectives during a fiscal year.

(5) 'Budget year' is the fiscal year for which a budget is proposed and a budget resolution is adopted.

(6) 'Fiscal year' is the annual period for the compilation of fiscal operations. The fiscal year begins on July 1 and ends on June 30.

(7) 'Fund' is an independent fiscal and accounting entity consisting of cash and other resources together with all related liabilities, obligations, reserves, and equities which are segregated by appropriate accounting techniques for the purpose of carrying on specific activities or attaining certain objectives in accordance with established legal regulations, restrictions, or limitations.

"§ 115-80. *Uniform laws; local acts superseded.*—It is the intent of the General Assembly by enactment of this Article to prescribe for the public schools a uniform system of budgeting and fiscal control. To this end, all provisions of general laws and local acts in effect as of July 1, 1976, and in conflict with the provisions of this Article are repealed except local acts providing for the levy or for the levy and collection of school supplemental taxes. No local act enacted or taking effect after July 1, 1976, may be construed to modify, amend, or repeal any portion of this Article unless it expressly so provides by specific reference to the appropriate section.

"Part 2. Budget.

"§ 115-82. *Annual balanced budget resolution.*—(a) Each administrative unit shall operate under an annual balanced budget resolution adopted and administered in accordance with this Article. A budget resolution is balanced when the sum of estimated net revenues and appropriated fund balances is equal to appropriations. Appropriated fund balance in any fund shall not exceed the sum of cash and investments minus the sum of liabilities, encumbrances, and

deferred revenues, as those figures stand at the close of the fiscal year next preceding the budget year. The budget resolution shall cover one fiscal year.

(b) It is the intent of this Article that all moneys received and expended by an administrative unit should be included in the school budget resolution. Therefore, notwithstanding any other provisions of law, after July 1, 1976, no school administrative unit may expend any moneys, regardless of their source (including moneys derived from federal, State, or private sources), except in accordance with a budget resolution adopted pursuant to this Article.

(c) Subsection (b) of this section does not apply to funds of individual schools, as defined in G.S. 115-99.9.

"§ 115-83. *Uniform budget format.*—(a) The State Board of Education, in cooperation with the Local Government Commission, shall cause to be prepared and promulgated a standard budget format for use by school administrative units throughout the State.

(b) The uniform budget format shall be organized so as to facilitate accomplishment of the following objectives: (i) to enable the board of education and the board of county commissioners to make the local educational and local fiscal policies embodied therein; (ii) to control and facilitate the fiscal management of the administrative unit during the fiscal year; and (iii) to facilitate the gathering of accurate and reliable fiscal data on the operation of the public school system throughout the State.

(c) The uniform budget format shall require the following funds:

(1) The State Public School Fund.

(2) The Local Current Expense Fund.

(3) The Capital Outlay Fund.

In addition, other funds may be required to account for trust funds, federal grants restricted as to use, and special programs. Each administrative unit shall maintain those funds shown in the uniform budget format that are applicable to its operations.

(d) The State Public School Fund shall include appropriations for the current operating expenses of the public school system from moneys made available to the administrative unit by the State Board of Education.

(e) The Local Current Expense Fund shall include appropriations sufficient, when added to appropriations from the State Public School Fund, for the current operating expense of the public school system in conformity with the educational goals and policies of the State and the local board of education, within the financial resources and consistent with the fiscal policies of the board of county commissioners. These appropriations shall be funded by revenues accruing to the administrative unit by virtue of Article IX, Section 7 of the Constitution, moneys made available to the administrative unit by the board of county commissioners, supplemental taxes levied by or on behalf of the administrative unit pursuant to a local act or Article 14 of this Chapter, State money disbursed directly to the administrative unit, and other moneys made available or accruing to the administrative unit for the current operating expenses of the public school system.

(f) The Capital Outlay Fund shall include appropriations for:

(1) The acquisition of real property for school purposes, including but not limited to school sites, playgrounds, athletic fields, administrative headquarters, and garages;

(2) The acquisition, construction, reconstruction, enlargement, renovation,

or replacement of buildings and other structures, including but not limited to buildings for classrooms and laboratories, physical and vocational educational purposes, libraries, auditoriums, gymnasiums, administrative offices, storage, and vehicle maintenance;

(3) The acquisition or replacement of furniture and furnishings, instructional apparatus, data processing equipment, business machines, and similar items of furnishings and equipment;

(4) The acquisition of school buses as additions to the fleet;

(5) The acquisition of activity buses and other motor vehicles;

(6) Such other objects of expenditure as may be assigned to the Capital Outlay Fund by the uniform budget format.

The cost of acquiring or constructing a new building, or reconstructing, enlarging, or renovating an existing building, shall include the cost of all real property and interests in real property, and all plants, works, appurtenances, structures, facilities, furnishings, machinery, and equipment, necessary or useful in connection therewith; financing charges; the cost of plans, specifications, studies, reports, and surveys; legal expenses; and all other costs necessary or incidental to the construction, reconstruction, enlargement, or renovation.

No contract for the purchase of a site shall be executed nor any funds expended therefor without the approval of the board of county commissioners as to the amount to be spent for the site; and in case of a disagreement between a board of education and a board of county commissioners as to the amount to be spent for the site, the procedure provided in G.S. 115-88 shall, insofar as the same may be applicable, be used to settle the disagreement.

Appropriations in the Capital Outlay Fund shall be funded by revenues made available for capital outlay purposes by the State Board of Education and the board of county commissioners, supplemental taxes levied by or on behalf of the administrative unit pursuant to a local act or Article 14 of this Chapter, the proceeds of the sale of capital assets, the proceeds of claims against fire and casualty insurance policies, and other sources.

(g) Other funds shall include appropriations for such purposes funded from such sources as may be prescribed by the uniform budget format.

"§ 115-84. *Preparation and submission of budget and budget message.*—(a) Before the close of each fiscal year, the superintendent shall prepare a budget for the ensuing year for consideration by the board of education. The budget shall comply in all respects with the limitations imposed by G.S. 115-89.

(b) The budget, together with a budget message, shall be submitted to the board of education not later than May 1. The budget and budget message should, but need not, be submitted at a formal meeting of the board. The budget message should contain a concise explanation of the educational goals fixed by the budget for the budget year, should set forth the reasons for stated changes from the previous year in program goals, programs, and appropriation levels, and should explain any major changes in educational or fiscal policy.

"§ 115-85. *Filing and publication of the budget; budget hearing.*—(a) On the same day that he submits the budget to the board of education, the superintendent shall file a copy of it in his office where it shall remain available for public inspection until the budget resolution is adopted. He may also publish a statement in a newspaper qualified under G.S. 1-597 to publish legal advertisements in the county that the budget has been submitted to the board of education, and is available for public inspection in the office of the

superintendent of schools. The statement should also give notice of the time and place of the budget hearing authorized by subsection (b) of this section.

(b) Before submitting the budget to the board of county commissioners, the board of education may hold a public hearing at which time any persons who wish to be heard on the school budget may appear.

"§ 115-86. *Approval of budget; submission to county commissioners; commissioners action on budget.*—(a) Upon receiving the budget from the superintendent and following the public hearing authorized by G.S. 115-85(b), if one is held, the board of education shall consider the budget, make such changes therein as it deems advisable, and submit the entire budget as approved by the board of education to the board of county commissioners not later than May 15, or such later date as may be fixed by the board of county commissioners.

(b) The board of county commissioners shall complete its action on the school budget on or before July 1, or such later date as may be agreeable to the board of education. The commissioners shall determine the amount of county revenues to be appropriated in the county budget ordinance to the administrative unit for the budget year. The board of county commissioners may, in its discretion, allocate part or all of its appropriation by purpose, function, or project as defined in the uniform budget format.

(c) The board of county commissioners shall have full authority to call for, and the board of education shall have the duty to make available to the board of county commissioners upon request, all books, records, audit reports, and other information bearing on the financial operation of the administrative unit.

(d) Nothing in this Article shall be construed to place a duty on the board of commissioners to fund a deficit incurred by an administrative unit through failure of the unit to comply with the provisions of this Article or rules and regulations issued pursuant hereto, or to provide moneys lost through misapplication of moneys by a bonded officer, employee or agent of the administrative unit when the amount of the fidelity bond required by the board of education was manifestly insufficient.

"§ 115-87. *Apportionment of county appropriations among administrative units.*—If there is more than one administrative unit in a county, all appropriations by the county to the Local Current Expense Funds of the units, except appropriations funded by supplemental taxes levied less than county-wide pursuant to a local act or Article 14 of this Chapter, must be apportioned according to the membership of each unit. County appropriations are properly apportioned when the dollar amount obtained by dividing the amount so appropriated to each unit by the total membership of the unit is the same for each unit. The 'total membership' of the administrative unit is the unit's projected average daily membership for the budget year to be determined by and certified to the unit and the board of county commissioners by the State Board of Education.

"§ 115-88. *Procedure for resolution of dispute between board of education and board of county commissioners.*—(a) If the board of education determines that the amount of money appropriated to the Local Current Expense Fund, or the Capital Outlay Fund, or both, by the board of county commissioners is not sufficient to support a system of free public schools, the chairman of the board of education and the chairman of the board of county commissioners shall arrange a joint meeting of the two boards to be held within seven days after the day of the county commissioners' decision on the school appropriations. At the joint

meeting, the entire school budget shall be considered carefully and judiciously, and the two boards shall make a good faith attempt to resolve the differences that have arisen between them.

(b) If no agreement is reached at the joint meeting of the two boards, either board may refer the dispute to the clerk of superior court for arbitration within three days after the day of the joint meeting. The clerk shall render his decision on the matters in disagreement within 10 days after the day of the referral. The clerk of the superior court shall have the authority to subpoena or issue any orders necessary to have appear before him any member of a board of education and any member of a board of commissioners involved in the dispute and to require that the records of either board be presented to him for the purpose of arbitration of the issues.

(c) Within 10 days after the date of award, either board may appeal the clerk's award to the Superior Court Division of the General Court of Justice. The court shall find the facts as to the amount of money necessary to maintain a system of free public schools, and the amount of money needed from the county to make up this total. Either board has the right to have the issues of fact tried by a jury. When a jury trial is demanded, the cause shall be set for the first succeeding term of the superior court in the county, and shall take precedence over all other business of the court. However, if the judge presiding certifies to the Chief Justice of the Supreme Court, either before or during the term, that because of the accumulation of other business, the public interest will be best served by not trying the cause at the term next succeeding the appeal, the Chief Justice shall immediately call a special term of the superior court for the county, to convene as soon as possible, and assign a judge of the superior court or an emergency judge to hold the court, and the cause shall be tried at this special term. The issue submitted to the jury shall be what amount of money is needed from sources under the control of the board of county commissioners to maintain a system of free public schools.

All findings of fact in the superior court, whether found by the judge or a jury, shall be conclusive. When the facts have been found, the court shall give judgment ordering the board of county commissioners to appropriate a sum certain to the administrative unit, and to levy such taxes on property as may be necessary to make up this sum when added to other revenues available for the purpose.

(d) If an appeal is taken to the Appellate Division of the General Court of Justice, and if such an appeal would result in a delay beyond a reasonable time for levying taxes for the year, the judge shall order the board of county commissioners to appropriate to the administrative unit for deposit in the Local Current Expense Fund a sum of money sufficient when added to all other moneys available to that fund to equal the amount of this fund for the previous year. All papers and records relating to the case shall be considered a part of the record on appeal.

(e) If, in an appeal taken pursuant to this section, the final judgment of the General Court of Justice is rendered after the due date prescribed by law for property taxes, the board of county commissioners is authorized to levy such supplementary taxes as may be required by the judgment, notwithstanding any other provisions of law with respect to the time for doing acts necessary to a property tax levy. Upon making a supplementary levy under this subsection, the board of county commissioners shall designate the person who is to compute and

prepare the supplementary tax receipts and records for all such taxes. Upon delivering the supplementary tax receipts to the tax collector, the board of county commissioners shall proceed as provided in G.S. 105-321.

The due date of supplementary taxes levied under this subsection is the date of the levy, and the taxes may be paid at par or face amount at any time before the one hundred and twentieth day after the due date. On or after the one hundred and twentieth day and before the one hundred and fiftieth day from the due date there shall be added to the taxes interest at the rate of two percent (2%). On or after the one hundred and fiftieth day from the due date, there shall be added to the taxes, in addition to the two percent (2%) provided above, interest at the rate of three-fourths of one percent (3/4 of 1%) per 30 days or fraction thereof until the taxes plus interest have been paid. No discounts for prepayment of supplementary taxes levied under this subsection shall be allowed.

"§ 115-89. *The budget resolution; adoption, limitations, tax levy, filing.*—(a) After the board of county commissioners has made its appropriations to the administrative unit, or after the appeal procedure set out in G.S. 115-88 has been concluded, the board of education shall adopt a budget resolution making appropriations for the budget year in such sums as the board may deem sufficient and proper. The budget resolution shall conform to the uniform budget format established by the State Board of Education.

(b) The following directions and limitations shall bind the board of education in adopting the budget resolution:

(1) If the county budget ordinance allocates appropriations to the administrative unit pursuant to G.S. 115-86(b), the school budget resolution shall conform to that allocation. The budget resolution may be amended to change allocated appropriations only in accordance with G.S. 115-90.

(2) Subject to the provisions of G.S. 115-86(d), the full amount of any lawful deficit from the prior fiscal year shall be appropriated.

(3) Contingency appropriations in a fund may not exceed five percent (5%) of the total of all other appropriations in that fund. Each expenditure to be charged against a contingency appropriation shall be authorized by resolution of the board of education, which resolution shall be deemed an amendment to the budget resolution, not subject to G.S. 115-86(b) and G.S. 115-90(b), setting up or increasing an appropriation for the object of expenditure authorized. The board of education may authorize the superintendent to authorize expenditures from contingency appropriations subject to such limitations and procedures as it may prescribe. Any such expenditure shall be reported to the board of education at its next regular meeting and recorded in the minutes.

(4) Sufficient funds to meet the amounts to be paid during the fiscal year under continuing contracts previously entered into shall be appropriated.

(5) The sum of estimated net revenues and appropriated fund balances in each fund shall be equal to appropriations in that fund.

(6) No appropriation may be made that would require the levy of supplemental taxes pursuant to a local act or Article 14 of this Chapter in excess of the rate of tax approved by the voters, or the expenditure of revenues for purposes not permitted by law.

(7) In estimating revenues to be realized from the levy of school supplemental taxes pursuant to a local act or Article 14 of this Chapter,

the estimated percentage of collection may not exceed the percentage of that tax actually realized in cash during the preceding fiscal year, or if the tax was not levied in the preceding fiscal year, the percentage of the general county tax levy actually realized in cash during the preceding fiscal year.

(8) Amounts to be realized from collection of supplemental taxes levied in prior fiscal years shall be included in estimated revenues.

(9) No appropriation may be made to or from the Capital Outlay Fund to or from any other fund, except as permitted by G.S. 115-90(d).

(c) If the administrative unit levies its own supplemental taxes pursuant to a local act, the budget resolution shall make the appropriate tax levy in accordance with the local act, and the board of education shall notify the county or city that collects the levy in accordance with G.S. 159-14.

(d) The budget resolution shall be entered in the minutes of the board of education, and within five days after adoption, copies thereof shall be filed with the superintendent, the school finance officer and the county finance officer. The board of education shall file a copy of the budget as approved and a copy of the budget resolution with the Controller of the State Board of Education.

"§ 115-90. *Amendments to the budget resolution; budget transfers.*—(a) Subject to the provisions of subsection (b) of this section, the board of education may amend the budget resolution at any time after its adoption in any manner, so long as the resolution, as amended, continues to satisfy the requirements of G.S. 115-82 and G.S. 115-89.

(b) If the board of county commissioners allocates part or all of its appropriations pursuant to G.S. 115-86(b), the board of education must obtain the approval of the board of county commissioners for an amendment to the budget that (i) increases or decreases expenditures from the Capital Outlay Fund for projects listed in G.S. 115-83(f)(1) or (2), or (ii) increases or decreases the amount of county appropriation allocated to a purpose or function by twenty-five percent (25%) or more from the amount contained in the budget ordinance adopted by the board of county commissioners: provided, that at its discretion, the board may in its budget ordinance specify a lesser percentage, so long as such percentage is not less than ten percent (10%).

(c) The board of education may by appropriate resolution authorize the superintendent to transfer moneys from one appropriation to another within the same fund, subject to such limitations and procedures as may be prescribed by the board of education or State or federal law or regulations. Any such transfers shall be reported to the board of education at its next regular meeting and shall be entered in the minutes.

(d) The board of education may amend the budget to transfer money to or from the Capital Outlay Fund to or from any other fund, with the approval of the board of county commissioners, to meet emergencies unforeseen and unforeseeable at the time the budget resolution was adopted. When such an emergency arises, the board of education may adopt a resolution requesting approval from the board of commissioners for the transfer of a specified amount of money to or from the Capital Outlay Fund to or from some other fund. The resolution shall state (i) the nature of the emergency, (ii) why the emergency was not foreseen and was not foreseeable when the budget resolution was adopted, (iii) what specific objects of expenditure will be added or increased as a result of the transfer, and (iv) what objects of expenditure will be eliminated or

reduced as a result of the transfer. A certified copy of this resolution shall be transmitted to the board of county commissioners for their approval and to the boards of education of all other school administrative units in the county for their information. The board of commissioners shall act upon the request within 30 days after it is received by the clerk to the board of commissioners or the chairman of the board of commissioners, after having afforded the boards of education of all other administrative units in the county an opportunity to comment on the request. The board of commissioners may either approve or disapprove the request as presented. Upon either approving or disapproving the request, the board of commissioners shall forthwith so notify the board of education making the request and any other board of education that exercised its right to comment thereon. Upon receiving such notification, the board of education may proceed to amend the budget resolution in the manner indicated in the request. Failure of the board of county commissioners to act within the time allowed for approval or disapproval shall be deemed approval of the request. The time limit for action by the board of county commissioners may be extended by mutual agreement of the board of county commissioners and the board of education making the request. A budget resolution amended in accordance with this subsection need not comply with G.S. 115-87.

"§ 115-91. *Interim budget.*—In case the adoption of the budget resolution is delayed until after July 1, the board of education shall make interim appropriations for the purpose of paying salaries and the usual ordinary expenses of the administrative unit for the interval between the beginning of the fiscal year and the adoption of the budget resolution. Interim appropriations so made and expended shall be charged to the proper appropriations in the budget resolution.

"Part 3. Fiscal Control.

"§ 115-95. *School finance officer.*—Each administrative unit shall have a school finance officer who shall be appointed or designated by the superintendent of schools and approved by the board of education, with the school finance officer serving at the pleasure of the superintendent. The duties of school finance officer may be conferred on any officer or employee of the administrative unit or, upon request of the superintendent; with approval by the board of education and the board of county commissioners, on the county finance officer. In counties where there is more than one school administrative unit, the duties of finance officer may be conferred on any one officer or employee of the several administrative units by agreement between the affected superintendents with the concurrence of the affected board of education and the board of county commissioners. The position of school finance officer is hereby declared to be an office that may be held concurrently with other appointive (but not elective) offices pursuant to Article VI, Section 9 of the Constitution.

"§ 115-96. *Duties of school finance officer.*—(a) The school finance officer shall be responsible to the superintendent for:

(1) Keeping the accounts of the administrative unit in accordance with generally accepted principles of governmental accounting, the rules and regulations of the State Board of Education, and the rules and regulations of the Local Government Commission;

(2) Giving the preaudit certificate required by G.S. 115-99.2;

(3) Signing and issuing all checks, drafts, and State warrants by the

administrative unit, investing idle cash, and receiving and depositing all moneys accruing to the administrative unit;

(4) Preparing and filing a statement of the financial condition of the administrative unit as often as requested by the superintendent, and when requested in writing, with copy to the superintendent, by the board of education or the board of county commissioners;

(5) Performing such other duties as may be assigned to him by law, by the superintendent, or by rules and regulations of the State Board of Education and the Local Government Commission.

All references in other portions of the General Statutes or local acts to school treasurers, county treasurers, or other officials performing any of the duties conferred by this section on the school finance officer shall be deemed to refer to the school finance officer.

(b) The State Board of Education has authority to issue rules and regulations having the force of law governing procedures for the disbursement of money allocated to the administrative unit by or through the State. The Local Government Commission has authority to issue rules and regulations having the force of law governing procedures for the disbursement of all other moneys allocated or accruing to the administrative unit. The State Board of Education and the Local Government Commission may inquire into and investigate the internal control procedures of an administrative unit with respect to moneys under their respective jurisdictions, and may require any modifications in internal control procedures which may be necessary or desirable to prevent embezzlements or mishandling of public moneys.

"§ 115-97. *Allocation of revenues to the administrative unit by the county.*—Revenues accruing to the administrative unit by virtue of Article IX, Section 7 of the Constitution and taxes levied by or on behalf of the administrative unit pursuant to a local act or Article 14 of this Chapter shall be remitted to the school finance officer by the officer having custody thereof within 10 days after the close of the calendar month in which the revenues were received or collected. Revenues appropriated to the administrative unit by the board of county commissioners from general county revenues shall be made available to the school finance officer by such procedures as may be mutually agreeable to the board of education and the board of county commissioners, but if no such agreement is reached, these funds shall be remitted to the school finance officer by the county finance officer in monthly installments sufficient to meet its lawful expenditures from the county appropriation until the county appropriation to the administrative unit is exhausted. Each installment shall be paid not later than 10 days after the close of each calendar month. When revenue has been appropriated to the administrative unit by the board of county commissioners from funds which carry specific restrictions binding upon the county as recipient, the board of commissioners must inform the administrative unit in writing of those restrictions.

"§ 115-98. *Provision for disbursement of State money.*—The deposit of money in the State Treasury to the credit of administrative units shall be made in monthly installments and additionally as necessary, at such time and in such a manner as may be most convenient for the operation of the public school system. Before an installment is credited, the school finance officer shall certify to the Controller of the State Board of Education the expenditures to be made by the administrative unit from the State Public School Fund during the

month. This certification shall be filed on or before the fifth day following the end of the month preceding the period in which the expenditures will be made. The Controller shall determine whether the moneys requisitioned are due the administrative unit, and upon determining the amount due, shall cause the requisite amount to be credited to the administrative unit. Upon receiving notice from the State Treasurer of the amount placed to the credit of the administrative unit, the finance officer may issue State warrants up to the amount so certified.

The Controller may withhold money for payment of salaries for administrative officers of administrative units if any report required to be filed with State school authorities is more than 30 days overdue.

Money in the State Public School Fund and State bond moneys shall be released only on warrants drawn on the State Treasurer, signed by such local official as may be required by the Controller of the State Board of Education.

"§ 115-99. *Facsimile signatures.*—The board of education may provide by appropriate resolution for the use of facsimile signature machines, signature stamps, or similar devices in signing checks and drafts and in signing the preaudit certificate on contracts or purchase orders. The board shall charge the finance officer or some other bonded officer or employee with the custody of the necessary machines, stamps, plates, or other devices, and that person and the sureties on his official bond are liable for any illegal, improper, or unauthorized use of them.

"§ 115-99.1. *Accounting system.*—(a) System required. Each administrative unit shall establish and maintain an accounting system designed to show in detail its assets, liabilities, equities, revenues, and expenditures. The system shall also be designed to show appropriations and estimated revenues as established in the budget resolution as originally adopted and subsequently amended.

(b) Basis of accounting. Administrative units shall use the modified accrual basis of accounting in recording transactions.

(c) Encumbrance systems. Except as otherwise provided in this subsection, no administrative unit is required to record or show encumbrances in its accounting system. The Local Government Commission, in consultation with the State Board of Education, shall establish regulations, based on total membership of the administrative unit or some other appropriate criterion, setting forth which units are required to maintain an accounting system that records and shows the encumbrances outstanding against each category of expenditure appropriated in the budget resolution. Any other administrative unit may record and show encumbrances in its accounting system.

(d) Commission regulations. The Local Government Commission, in consultation with the State Board of Education, may prescribe rules and regulations having the force of law as to:

(1) Features of accounting systems to be maintained by administrative units.

(2) Bases of accounting, including identifying in detail the characteristics of a modified accrual basis and identifying what revenues are susceptible to accrual.

(3) Definitions of terms not clearly defined in this Article.

These rules and regulations may be varied according to the size of the

administrative unit, or according to any other criteria reasonably related to the purpose or complexity of the financial operations involved.

"§ 115-99.2. *Budgetary accounting for appropriations.*—(a) Incurring obligations. No obligation may be incurred by an administrative unit unless the budget resolution includes an appropriation authorizing the obligation and an unencumbered balance remains in the appropriation sufficient to pay in the current fiscal year the sums obligated by the transaction for the current fiscal year. If an obligation is evidenced by a contract or agreement requiring the payment of money or by a purchase order for supplies and materials, the contract, agreement, or purchase order shall include on its face a certificate stating that the instrument has been preaudited to assure compliance with this subsection. The certificate, which shall be signed by the finance officer, shall take substantially the following form:

'This instrument has been preaudited in the manner required by the School Budget and Fiscal Control Act. (date)
(Signature of finance officer)'.

An obligation incurred in violation of this subsection is invalid and may not be enforced. The finance officer shall establish procedures to assure compliance with this subsection.

(b) Disbursements. When a bill, invoice, or other claim against an administrative unit is presented, the finance officer shall either approve or disapprove the necessary disbursement. The finance officer may approve the claim only if (1) he determines the amount to be payable and (2) the budget resolution includes an appropriation authorizing the expenditure and either (i) an encumbrance has been previously created for the transaction or (ii) an unencumbered balance remains in the appropriation sufficient to pay the amount to be disbursed. A bill, invoice, or other claim may not be paid unless it has been approved by the finance officer or, under subsection (c) of this section, by the board of education.

(c) Board of education approval of bills, invoices, or claims. The board of education may, as permitted by this subsection, approve a bill, invoice, or other claim against the administrative unit that has been disapproved by the finance officer. It may not approve a claim for which no appropriation appears in the budget resolution, or for which the appropriation contains no encumbrance and the unencumbered balance is less than the amount to be paid. The board of education shall approve payment by formal resolution stating the board's reasons for allowing the bill, invoice, or other claim. The resolution shall be entered in the minutes together with the names of those voting in the affirmative. The chairman of the board or some other member designated for this purpose shall sign the certificate on the check or draft given in payment of the bill, invoice, or other claim. If payment results in a violation of law, each member of the board voting to allow payment is jointly and severally liable for the full amount of the check or draft given in payment.

(d) Payment. An administrative unit may not pay a bill, invoice, salary, or other claim except by a check or draft on an official depository, by a bank wire transfer from an official depository, or by a warrant on the State Treasurer. Except as provided in this subsection each check or draft on an official depository shall bear on its face a certificate signed by the finance officer (or signed by the chairman or some other member of the board pursuant to

subsection (c) of this section). The certificate shall take substantially the following form:

'This disbursement has been approved as required by the
School Budget and Fiscal Control Act.
(Signature of finance officer).'

No certificate is required on payroll checks or drafts or on State warrants.

(e) Penalties. If an officer or employee of an administrative unit incurs an obligation or pays out or causes to be paid out any funds in violation of this section, he and the sureties on his official bond are liable for any sums so committed or disbursed. If the finance officer gives a false certificate to any contract, agreement, purchase order, check, draft, or other document, he and the sureties on his official bond are liable for any sums illegally committed or disbursed thereby.

"§ 115-99.3. *Fidelity bonds.*—(a) The finance officer shall give a true accounting and faithful performance bond with sufficient sureties in an amount to be fixed by the board of education, not less than ten thousand dollars ($10,000) nor more than two hundred fifty thousand dollars ($250,000). This bond shall cover (i) the faithful performance of all duties placed on the finance officer by or pursuant to law and (ii) the faithful accounting for all funds in his custody except State funds placed to the credit of the administrative unit by the State Treasurer. The premium on the bond shall be paid by the administrative unit.

(b) The State Board of Education shall provide for adequate and appropriate bonding of school finance officers and such other employees as it deems appropriate with respect to the disbursement of State funds. When it requires such bonds, the State Board of Education is authorized to place the bonds and pay the premiums thereon.

(c) The treasurer of each individual school and all other officers, employees and agents of each administrative unit who have custody of public school money in the normal course of their employment or agency shall give a true accounting bond with sufficient sureties in an amount to be fixed by the board of education. The premiums on these bonds shall be paid by the administrative unit. Instead of individual bonds, an administrative unit may provide for a blanket bond to cover all officers, employees, and agents of the administrative unit required to be bonded, except the finance officer. The finance officer may be included within the blanket bond, if the blanket bond protects against risks not protected against by the individual bond.

"§ 115-99.4. *Investment of idle cash.*—(a) An administrative unit may deposit at interest or invest all or part of the cash balance of any fund. The finance officer shall manage investments subject to whatever restrictions and directions the board of education may impose. The finance officer shall have the power to purchase, sell, and exchange securities on behalf of the board of education. The investment program shall be so managed that investments and deposits can be converted into cash when needed.

(b) Moneys may be deposited at interest in any bank or trust company in this State in the form of certificates of deposit or such other forms of time deposit as the Local Government Commission may approve. Investment deposits shall be secured as provided in G.S. 115-99.5(b).

(c) Moneys may be invested in the following classes of securities, and no others:

(1) Obligations of the United States of America.
(2) Obligations of any agency or instrumentality of the United States of America if the payment of interest and principal of such obligations is fully guaranteed by the United States of America.
(3) Obligations of the State of North Carolina.
(4) Bonds and notes of any North Carolina local government or public authority, subject to such restrictions as the Secretary of the Local Government Commission may impose.
(5) Shares of any savings and loan association organized under the laws of this State and shares of any federal savings and loan association having its principal office in this State, to the extent that the investment in such shares is fully insured by the United States of America or an agency thereof or by any mutual deposit guaranty association authorized by the Commissioner of Insurance of North Carolina to do business in North Carolina pursuant to Article 7A of Chapter 54 of the General Statutes.
(6) Obligations maturing no later than 18 months after the date of purchase of the Federal Intermediate Credit Banks, the Federal Home Loan Banks, the Federal National Mortgage Association, the Banks for Cooperatives, and the Federal Land Banks.
(7) Any form of investment allowed by law to the State Treasurer.
(8) Any form of investment allowed by G.S. 159-30 to local governments and public authorities.

(d) Investment securities may be bought, sold, and traded by private negotiation, and administrative units may pay all incidental costs thereof and all reasonable costs of administering the investment and deposit program. Securities and deposit certificates shall be in the custody of the finance officer who shall be responsible for their safekeeping and for keeping accurate investment accounts and records.

(e) Interest earned on deposits and investments shall be credited to the fund whose cash is deposited or invested. Cash of several funds may be combined for deposit or investment if not otherwise prohibited by law; and when such joint deposits or investments are made, interest earned shall be prorated and credited to the various funds on the basis of the amounts thereof invested, figured according to an average periodic balance or some other sound accounting principle. Interest earned on the deposit or investment of bond funds shall be deemed a part of the bond proceeds.

(f) Registered securities acquired for investment may be released from registration and transferred by signature of the finance officer.

(g) It is the intent of this act that the foregoing provisions of this section shall apply only to those funds received by the school administrative unit as required by G.S. 115-97. The county finance officer shall be responsible for the investment of all county funds allocated to the school administrative unit prior to such county funds actually being remitted to the school finance officer as provided by G.S. 115-97.

"§ 115-99.5. *Selection of depository; deposits to be secured.*—(a) Each board of education shall designate as the official depositories of the administrative unit one or more banks or trust companies in this State. It shall be unlawful for any money belonging to an administrative unit or an individual school to be deposited in any place, bank, or trust company other than an official depository, except as permitted by G.S. 115-99.4(b).

(b) Money on deposit in an official depository or deposited at interest pursuant to G.S. 115-99.4(b) shall be fully secured by deposit insurance, surety bonds, or investment securities of such nature, in such amounts, and in such manner, as may be prescribed by rule or regulation of the Local Government Commission. When deposits are secured in accordance with this subsection, no public officer or employee may be held liable for any losses sustained by an administrative unit because of the default or insolvency of the depository.

"§ 115-99.6. *Daily deposits.*—Except as otherwise provided by law, all moneys collected or received by an officer, employee or agent of an administrative unit or an individual school shall be deposited in accordance with this section. Each officer, employee and agent of an administrative unit or individual school whose duty it is to collect or receive any taxes or other moneys shall deposit his collections and receipts daily. If the board of education gives its approval, deposits shall be required only when the moneys on hand amount to as much as two hundred fifty dollars ($250.00), but in any event a deposit shall be made on the last business day of the month. All deposits shall be made with the finance officer or in an official depository. Deposits in an official depository shall be immediately reported to the finance officer or individual school treasurer by means of a duplicate deposit ticket. The finance officer may at any time audit the accounts of any officer, employee or agent collecting or receiving any taxes or other moneys, and may prescribe the form and detail of these accounts. The accounts of such an officer, employee or agent shall be audited at least annually.

"§ 115-99.7. *Semiannual reports on status of deposits and investments.*—Each school finance officer shall report to the Secretary of the Local Government Commission on January 1 and July 1 of each year (or such other dates as the Secretary may prescribe) the amounts of money then in his custody and in the custody of treasurers of individual schools within the unit, the amount of deposits of such money in depositories, a list of all investment securities and time deposits held by the administrative unit and individual schools therein, and a description of the surety bonds or investment securities securing demand and time deposits. If the Secretary finds at any time that any moneys of an administrative unit or an individual school are not properly deposited or secured, or are invested in securities not eligible for investment, he shall notify the officer in charge of the moneys of the failure to comply with law. Upon such notification, the officer shall comply with the law within 30 days, except as to the sale of securities not eligible for investment which shall be sold within nine months at a price to be approved by the Secretary. The Local Government Commission may extend the time for sale of ineligible securities, but no one extension may cover a period of more than one year.

"§ 115-99.8. *Annual independent audit.*—Each administrative unit shall have its accounts and the accounts of individual schools therein audited as soon as possible after the close of each fiscal year by a certified public accountant or by an accountant certified by the Local Government Commission as qualified to audit local government accounts. The auditor who audits the accounts of an administrative unit shall also audit the accounts of its individual schools. The auditor shall be selected by and shall report directly to the board of education. The audit contract shall be in writing, shall include all its terms and conditions, and shall be submitted to the Secretary of the Local Government Commission for his approval as to form, terms and conditions. The terms and conditions of the audit contract shall include the scope of the audit, and the requirement that

upon completion of the examination the auditor shall prepare a typewritten or printed report embodying financial statements and his opinion and comments relating thereto. The financial statements accompanying the auditor's report shall be prepared in conformity with generally accepted accounting principles. The auditor shall file a copy of the audit report with the Secretary of the Local Government Commission, the Controller of the State Board of Education, the board of education and the board of county commissioners, and shall submit all bills or claims for audit fees and costs to the Secretary of the Local Government Commission for his approval. It shall be unlawful for any administrative unit to pay or permit the payment of such bills or claims without this approval. Each officer, employee and agent of the administrative unit having custody of public money or responsibility for keeping records of public financial or fiscal affairs shall produce all books and records requested by the auditor and shall divulge such information relating to fiscal affairs as he may request. If any member of a board of education or any other public officer, employee or agent shall conceal, falsify, or refuse to deliver or divulge any books, records, or information, with an intent thereby to mislead the auditor or impede or interfere with the audit, he is guilty of a misdemeanor and upon conviction thereof may be fined not more than one thousand dollars ($1,000), or imprisoned for not more than one year, or both, in the discretion of the court.

The State Auditor, in consultation with the State Board of Education, shall have authority to prescribe the manner in which funds disbursed by administrative units by warrants on the State Treasurer shall be audited.

"§ 115-99.9. *Special funds of individual schools.*—(a) The board of education shall appoint a treasurer for each school within the administrative unit that handles special funds. The treasurer shall keep a complete record of all moneys in his charge in such form and detail as may be prescribed by the finance officer of the administrative unit, and shall make such reports to the superintendent and finance officer of the administrative unit as they or the board of education may prescribe. Special funds of individual schools shall be deposited in an official depository of the administrative unit in special accounts to the credit of the individual school, and shall be paid only on checks or drafts signed by the principal of the school and the treasurer. The board of education may, in its discretion, waive the requirements of this section for any school which handles less than three hundred dollars ($300.00) in any school year.

(b) Nothing in this section shall prevent the board of education from requiring that all funds of individual schools be deposited with and accounted for by the school finance officer. If this is done, these moneys shall be disbursed and accounted for in the same manner as other school funds except that the check or draft shall not bear the certificate of preaudit.

(c) For the purposes of this section, 'special funds of individual schools' includes by way of illustration and not limitation funds realized from gate receipts of interscholastic athletic competition, sale of school annuals and newspapers, and dues of student organizations.

"§ 115-99.10. *Proceeds of insurance claims.*—Moneys paid to an administrative unit pursuant to contracts of insurance against loss of capital assets through fire or casualty shall be used to repair or replace the damaged asset, or if the asset is not repaired or replaced, placed to the credit of the Capital Outlay Fund for appropriation at some future time.

"§ 115-99.11. *School food services.*—Until July 1, 1978, an administrative unit may, in the discretion of the board of education, treat receipts and disbursements associated with school food services as special funds of individual schools or as part of the budget of the administrative unit. Effective July 1, 1978, school food services shall be included in the budget of each administrative unit and the State Board of Education shall provide for school food services in the uniform budget format required by G.S. 115-83.

"§ 115-99.12. *Reports to State Board of Education*—The State Board of Education shall have authority to require administrative units to make such reports as it may deem advisable with respect to the financial operation of the public schools.

"§ 115-99.13. *Fines and forfeitures.*—The clear proceeds of all penalties and forfeitures and of all fines collected in the General Court of Justice in each county shall be remitted by the clerk of the superior court to the county finance officer, who shall forthwith determine what portion of the total is due to each administrative unit in the county and remit the appropriate portion of the amount to the finance officer of each administrative unit. Fines and forfeitures shall be apportioned according to the projected average daily membership of each administrative unit as determined by and certified to the administrative units and the board of county commissioners by the State Board of Education pursuant to G.S. 115-87."

Sec. 2. G.S. 115-116(a) is hereby rewritten to read as follows:

"§ 115-116(a). *To vote a supplemental tax.*—Elections may be called by the local tax levying authority to ascertain the will of the voters as to whether there shall be levied and collected a special tax in the several administrative units, districts, and other school areas, including districts formed from contiguous counties to supplement the funds from State and county allotments and hereby operate schools of a higher standard by supplementing any item of expenditure in the school budget. When supplementary funds are authorized by the carrying of such an election, such funds may be used to employ additional teachers, other than those allotted by the State, to teach any grades or subjects or for kindergarten instruction, to establish and maintain approved summer schools, and for making the contribution to the Teachers' and State Employees' Retirement System of North Carolina for such teachers, or for any object of expenditure: Provided, that elections may be called to ascertain the will of the voters of an entire county, as to whether there shall be levied and collected a special tax on all the taxable property within the county for the purposes enumerated in this subsection. In such event, the supplemental tax shall be apportioned among the administrative units in the county pursuant to G.S. 115-87."

Sec. 3. G.S. 115-116(g) is amended by striking out the words "current expense" in the fourth line thereof.

Sec. 4. The last sentence of G.S. 115-116(h) is rewritten to read as follows:

"If such election carries, the said special or supplemental tax shall be collected pursuant to G.S. 115-124 and remitted to the administrative unit on whose behalf such special or supplemental tax is already levied; provided, that notwithstanding the provisions of G.S. 115-122.1 if the notice of election clearly so states, and the election shall be held prior to August 1, the annexation or consolidation shall be effective and the tax so authorized shall be levied and

collected beginning with the fiscal year commencing July 1 next preceding such elections."

Sec. 5. G.S. 115-117 is rewritten to read as follows:

"§ 115-117. *Maximum rate and frequency of elections.*—(a) A tax for supplementing the public school budget shall not exceed fifty cents (50¢) on the one hundred dollar ($100.00) value of property subject to taxation by the administrative unit; provided, that in any school administrative unit, district, or other school area having a total population of not less than 100,000 said local annual tax that may be levied shall not exceed sixty cents (60¢) on one hundred dollar ($100.00) valuation of said property.

(b) If a majority of those who vote in any election called pursuant to the provisions of this Article do not vote in favor of the purpose for which such election is called, another election for the same purpose shall not be called for and held in the same unit, district, or area until the lapse of six months after the prior election. However, the foregoing time limitation shall not apply to any election held in a unit, district, or other school area which is larger or smaller than the unit, district, or area in which the prior election was held, or to any election held for a different purpose than the prior election."

Sec. 6. G.S. 115-124 is rewritten to read as follows:

"§ 115-124. *Levy and collection of taxes.*—(a) If an administrative unit or district has voted a tax to operate schools of a higher standard than that provided by State and county support, the board of county commissioners of each county in which the administrative unit is located is authorized to levy a tax on all property having a situs in the administrative unit for the purpose of supplementing the Local Current Expense Fund, the Capital Outlay Fund, or both.

(b) Before April 15 of each year, the tax supervisor of each county in which the administrative unit is located shall certify to the superintendent of schools an estimate of the total assessed value of property in the county subject to taxation on behalf of the administrative unit and any districts therein pursuant to this Article. The board of education, in the budget it submits to the board of county commissioners, shall request the rate of ad valorem tax it wishes to have levied on its behalf as a school supplemental tax, not in excess of the rate approved by the voters. The board of county commissioners may approve or disapprove this request in whole or in part, and may levy such rate of supplemental tax as it may find to be in the best interests of the taxpayers and the public schools, not in excess of the rate requested by the board of education. Upon approving a supplemental tax levy pursuant to this section, the board of county commissioners shall cause the school supplemental tax to be computed for all property subject thereto. The taxes thus computed shall be shown separately on the county tax receipts for the fiscal year, and the county shall collect the school supplemental tax in the same manner that county taxes are collected. Collections shall be remitted to the administrative unit within 10 days after the close of each calendar month. Partial payments shall be proportionately divided between the county and the administrative unit. The board of county commissioners may, in its discretion, deduct from the proceeds of the school supplemental tax the actual additional cost to the county of levying, computing, billing, and collecting the tax.

(c) It shall be unlawful for any part of a tax levied pursuant to this Article to be used for any purpose other than those purposes authorized by the election in the unit or district."

Sec. 7. G.S. 115-48, 115-60, 115-61, 115-62, 115-65, the last sentence of G.S. 115-133.2 and the last paragraph of G.S. 115-155 are repealed.

Sec. 8. G.S. 115-64 is rewritten to read as follows:

"§ 115-64. *Teachers must be certified to be paid.*—No teacher shall be placed on the payroll of an administrative unit unless he holds a certificate as required by law, and unless a copy of the teacher's contract has been filed with the superintendent. No teacher may be paid more than he is due under the salary schedule in force in the administrative unit or special taxing district. Substitute and interim teachers may be paid under rules of the State Board of Education."

Sec. 9. G.S. 115-66 is rewritten to read as follows:

"§ 115-66. *When teachers' pay may be withheld.*—The board of education may withhold the salary of any supervisor, principal or teacher who delays or refuses to render such reports as are required by law. But whenever the reports are delivered in accordance with law, the salary shall be paid forthwith."

Sec. 10. G.S. 115-9 is rewritten to read as follows:

"§ 115-9. *Tax levying authorities defined.*—As used in this Chapter, the term 'tax levying authorities' shall mean the board of county commissioners of the county or counties in which an administrative unit is located or such other unit of local government as may be granted by local act authority to levy taxes on behalf of a school administrative unit."

Sec. 11. Chapter 115 of the General Statutes is amended by inserting a new section therein, to be appropriately numbered by the Revisor of Statutes, as follows:

"§ 115. *Summer schools.*—Each county and city administrative unit may establish and maintain summer schools. Such summer schools as may be established shall be administered by county and city boards of education and shall be conducted in accordance with standards developed by the State Board of Education. The standards so developed shall specify the requirements for approved curriculum, the qualifications of the personnel, the length of the session, and the conditions under which students may be granted credit for courses pursued during a summer school. In determining the eligibility of students for admission to summer schools, boards of education shall be governed by the provisions of Article 21 of this Chapter.

Boards of education of county and city administrative units may provide for summer schools from funds made available for that purpose by the State Board of Education, funds appropriated to the administrative unit by the tax-levying authority, and from any other revenues available for the purpose."

Sec. 12. G.S. 159-7 is amended by adding a new subsection as follows:

"(d) Except as expressly provided herein, this Article does not apply to school administrative units. The adoption and administration of budgets for the public school system and the management of the fiscal affairs of school administrative units are governed by the School Budget and Fiscal Control Act, Chapter 115, Article 9. However, this Article and the School Budget and Fiscal Control Act shall be construed together to the end that the administration of the fiscal affairs of counties and school administrative units may be most effectively and efficiently administered."

Sec. 13. G.S. 159-13(a) is amended by striking out paragraph (3) in the list of funds to be maintained, and by renumbering the succeeding paragraphs accordingly.

G.S. 159-13(a) is further amended by rewriting paragraph (8), renumbered (7) by this section, to read as follows:

"(7) A fund for each special district, school administrative unit, or public authority whose taxes or special assessments are collected by the unit."

G.S. 159-13(a) is further amended by rewriting the second unnumbered paragraph to read as follows:

"Portions of the budget ordinance applicable to community colleges and technical institutes shall be organized as provided in Chapter 115A of the General Statutes."

Sec. 14. G.S. 159-13(b)(11), as enacted by Section 1 of Chapter 780 of the 1971 Session Laws and amended by Chapter 474 of the 1973 Session Laws, is rewritten to read as follows:

"(11) Appropriations made to a school administrative unit by a county may not be reduced after the budget ordinance is adopted, unless the board of education of the administrative unit agrees by resolution to a reduction, or unless a general reduction in county expenditures is required because of prevailing economic conditions."

Sec. 15. G.S. 159-27 is amended by inserting a new subsection at the end thereof as follows:

"(d) This section applies to taxes levied by a unit of local government on behalf of another unit, including school administrative units."

Sec. 15.1. G.S. 115-17(7) is hereby amended to read as follows:

"§ 115-17(7). He shall, in cooperation with the State Auditor, cause to be made an annual audit of the State school funds disbursed by county and city administrative units and all other funds which by law are committed to the administration of the board."

Sec. 16. Each school administrative unit shall prepare its budget for the fiscal year 1976-77 in accordance with the provisions of this act, but shall not adopt its budget resolution before July 1, 1976.

Sec. 17. (a) Section 11 of Chapter 656 of the Session Laws of 1949, to the extent the same may have been repealed by G.S. 115-80, is hereby reenacted; it being expressly intended and provided hereby that to the extent the same conflicts with G.S. 115-80, G.S. 115-87 or any other section of the School Budget and Fiscal Control Act, Chapter 115, Article 9, said Section 11 of Chapter 656 of the Session Laws of 1949 shall control, and the particular sections of Chapter 115, Article 9 shall be deemed modified accordingly.

(b) Sections 2(c) and 5(d) of Chapter 707 of the Session Laws of 1963, to the extent the same may have been repealed by G.S. 115-80, are hereby reenacted; it being expressly intended and provided hereby that to the extent the same conflict with G.S. 115-80, G.S. 115-87 or any other section of the School Budget and Fiscal Control Act, Chapter 115, Article 9, said Sections 2(c) and 5(d) of Chapter 707 of the Session Laws of 1963 shall control, and the particular sections of Chapter 115, Article 9 shall be deemed modified accordingly.

(c) Sections 2 and 6 of Chapter 386 of the Session Laws of 1891, to the extent the same may have been repealed by G.S. 115-80, are hereby reenacted; it being expressly intended and provided hereby that to the extent the same

conflict with G.S. 115-80, G.S. 115-87 or any other section of the School Budget and Fiscal Control Act, Chapter 115, Article 9, said Sections 2 and 6 of Chapter 386 of the Session Laws of 1891 shall control, and the particular sections of Chapter 115, Article 9 shall be deemed modified accordingly.

(d) Sections 12 and 13 of Chapter 131 of the Session Laws of 1921, to the extent the same may have been repealed by G.S. 115-80, are hereby reenacted; it being expressly intended and provided hereby that to the extent the same conflict with G.S. 115-80, G.S. 115-87 or any other section of the School Budget and Fiscal Control Act, Chapter 115, Article 9, said Sections 12 and 13 of Chapter 131 of the Session Laws of 1921 shall control, and the particular sections of Chapter 115, Article 9 shall be deemed modified accordingly.

(e) This section shall take effect upon the effective date of the School Budget and Fiscal Control Act, Chapter 115, Article 9.

Sec. 18. (a) If any section of this act or any part of any section, or the application thereof is held invalid, the invalidity shall not affect any other section or the remaining part of such section or the application thereof which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

(b) This act shall apply to pending litigation where such application is feasible and would not work an injustice.

(c) This section shall take effect upon the effective date of the School Budget and Fiscal Control Act, Chapter 115, Article 9.

Sec. 19. Sections 15 and 16 of this act shall take effect upon ratification. Sections 17 and 18 shall take effect as therein specified. Sections 1 through 14 and 15.1 of this act shall take effect on July 1, 1976.

In the General Assembly read three times and ratified, this the 29th day of May, 1975.

H. B. 421 CHAPTER 438

AN ACT TO AMEND G.S. 44A-4 AND G.S. 20-77 TO PROVIDE NOTICE AND OPPORTUNITY FOR HEARING PRIOR TO LIEN SALES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 44A-4 is hereby amended to read as follows:

"(a) Enforcement by sale. If the charges for which the lien is claimed under this Article remain unpaid or unsatisfied for 30 days following the maturity of the obligation to pay any such charges, the lienor may enforce the lien by public or private sale as provided in this section. The lienor may bring an action on the debt in any court of competent jurisdiction at any time following maturity of the obligation. Failure of the lienor to bring such action within a 180-day period following the commencement of storage shall constitute a waiver of any right to collect storage charges which accrue after such period.

The owner or person with whom the lienor dealt may at any time following the maturity of the obligation bring an action in any court of competent jurisdiction as by law provided. If in any such action the owner or other party requests immediate possession of the property and pays the amount of the lien asserted into the clerk of the court in which such action is pending or posts bond for double such amount, the clerk shall issue an order to the lienor to relinquish possession of the property to the owner or other party.

(b) Notice and hearing. (1) If the property upon which the lien is claimed is a motor vehicle that is required to be registered, the lienor following the expiration of the 30-day period provided by subsection (a) shall give notice to the Department of Motor Vehicles that a lien is asserted and sale is proposed and shall remit to the department a fee of two dollars ($2.00). The Department of Motor Vehicles shall issue notice by registered or certified mail, return receipt requested, to the person having legal title to the property, if reasonably ascertainable, and to the person with whom the lienor dealt if different. Such notice shall state that a lien has been asserted against specific property and shall identify the lienor, the date that the lien arose, the general nature of the services performed and materials used or sold for which the lien is asserted, the amount of the lien, and that the lienor intends to sell the property in satisfaction of the lien. The notice shall inform the recipient that the recipient has the right to a judicial hearing at which time a determination will be made as to the validity of the lien prior to a sale taking place. The notice shall further state that the recipient has a period of 10 days from the date of receipt in which to notify the department by registered or certified mail, return receipt requested, that a hearing is desired and that if the recipient wishes to contest the sale of his property pursuant to such lien, the recipient should notify the department that a hearing is desired and the department shall notify lienor. The notice shall state the required information in simplified terms and shall contain a form whereby the recipient may notify the department that a hearing is desired by the return of such form to the department. Failure of the recipient to notify the department within 10 days of the receipt of such notice that a hearing is desired shall be deemed a waiver of the right to a hearing prior to sale of the property against which the lien is asserted, the department shall notify the lienor, and the lienor may proceed to enforce the lien by public or private sale as provided in this section and the department shall transfer title to the property pursuant to such sale. If the department is notified within the 10-day period provided above that a hearing is desired prior to sale, the lien may be enforced by sale as provided in this section and the department will transfer title only pursuant to the order of a court of competent jurisdiction.

(2) If the property upon which the lien is claimed is other than a motor vehicle required to be registered, the lienor following the expiration of the 30-day period provided by subsection (a) shall issue notice to the person having legal title to the property, if reasonably ascertainable, and to the person with whom the lienor dealt if different by registered or certified mail, return receipt requested. Such notice shall state that a lien has been asserted against specific property and shall identify the lienor, the date that the lien arose, the general nature of the services performed and materials used or sold for which the lien is asserted, the amount of the lien, and that the lienor intends to sell the property in satisfaction of the lien. The notice shall inform the recipient that the recipient has the right to a judicial hearing at which time a determination will be made as to the validity of the lien prior to a sale taking place. The notice shall further state that the recipient has a period of 10 days from the date of receipt in which to notify the lienor by registered or certified mail, return receipt requested, that a hearing is desired and that if the recipient wishes to contest the sale of his property pursuant to such lien, the recipient should notify the lienor that a hearing is desired. The notice shall state the required information in simplified terms and shall contain a form whereby the recipient may notify

the lienor that a hearing is desired by the return of such form to the lienor. Failure of the recipient to notify the lienor within 10 days of the receipt of such notice that a hearing is desired shall be deemed a waiver of the right to a hearing prior to sale of the property against which the lien is asserted and the lienor may proceed to enforce the lien by public or private sale as provided in this section. If the lienor is notified within the 10-day period provided above that a hearing is desired prior to sale, the lien may be enforced by sale as provided in this section only pursuant to the order of a court of competent jurisdiction.

(c) Private sale. Sale by private sale may be made in any manner that is commercially reasonable. Not less than 30 days prior to the date of the proposed private sale, the lienor shall cause notice to be mailed, as provided in subsection (f) hereof, to the person having legal title to the property, if reasonably ascertainable, to the person with whom the lienor dealt if different, and to each secured party or other person claiming an interest in the property who is actually known to the lienor or can be reasonably ascertained. Notices provided pursuant to subsection (b) hereof shall be sufficient for these purposes if such notices contain the information required by subsection (f) hereof. The lienor shall not purchase, directly or indirectly, the property at private sale and such a sale to the lienor shall be voidable.

(d) Request for public sale. If an owner, the person with whom the lienor dealt, any secured party, or other person claiming an interest in the property notifies the lienor prior to the date upon or after which the sale by private sale is proposed to be made, that public sale is requested, sale by private sale shall not be made. After request for public sale is received, notice of public sale must be given as if no notice of sale by private sale had been given.

(e) Public sale. (1) Not less than 20 days prior to sale by public sale the lienor:

a. Shall cause notice to be mailed to the person having legal title to the property if reasonably ascertainable, to the person with whom the lienor dealt if different, and to each secured party or other person claiming an interest in the property who is actually known to the lienor or can be reasonably ascertained, provided that notices provided pursuant to subsection (b) hereof shall be sufficient for these purposes if such notices contain the information required by subsection (f) hereof; and

b. Shall advertise the sale by posting a copy of the notice of sale at the courthouse door in the county where the sale is to be held and by publishing notice of sale once per week for two consecutive weeks in a newspaper of general circulation in the same county.

(2) A public sale must be held on a day other than Sunday and between the hours of 10:00 a.m. and 4:00 p.m.:

a. In any county where any part of the contract giving rise to the lien was performed, or

b. In the county where the obligation secured by the lien was contracted for.

(3) A lienor may purchase at public sale.

(f) Notice of sale. The notice of sale shall include:

(1) The name and address of the lienor;
(2) The name of the person having legal title to the property if such person can be reasonably ascertained and the name of the person with whom the lienor dealt;
(3) A description of the property;
(4) The amount due for which the lien is claimed;
(5) The place of the sale;
(6) If a private sale the date upon or after which the sale is proposed to be made, or if a public sale the date and hour when the sale is to be held.

(g) Damages for noncompliance. If the lienor fails to comply substantially with any of the provisions of this section, the lienor shall be liable to the person having legal title to the property or any other party injured by such noncompliance in the sum of one hundred dollars ($100.00), together with a reasonable attorney's fee as awarded by the court. Damages provided by this section shall be in addition to actual damages to which any party is otherwise entitled."

Sec. 2. G.S. 20-77 is hereby amended by deleting the second paragraph of subsection (d) and inserting in lieu thereof the following: "Any vehicle which remains unclaimed after report is made to the Department may be sold by such operator or landowner in accordance with the provisions relating to the enforcement of liens and the application of proceeds of sale of Article 1 of Chapter 44A."

Sec. 3. G.S. 20-137.10 is hereby amended by deleting subsection (b), by redesignating the present subsection (c) as subsection (b) and by amending the first sentence of the present subsection (c) (new subsection(b)), to read as follows:

"The tag shall serve as the only notice that if the vehicle is not removed within five days from the date reflected on the tag, that it will be removed to a designated place to be sold.",

and by redesignating the present subsection (d) as subsection (c), and by inserting a new subsection (d), to read as follows:

"(d) If the value of the vehicle is determined to be less than one hundred dollars ($100.00), and if the identity of the last registered owner cannot be determined or if the registration contains no address for the owner, or if it is impossible to determine with reasonable certainty the identification and addresses of any lienholders, no notice in addition to that required by subsection (a) hereof shall be required prior to sale."

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of May, 1975.

H. B. 465 **CHAPTER 439**

AN ACT TO PRORATE THE PROPERTY TAX LIABILITY OF AN OWNER OF LAND WHICH IS SUBSEQUENTLY CONDEMNED BY THE STATE OR ANY LOCAL MUNICIPALITY VIA EMINENT DOMAIN.

The General Assembly of North Carolina enacts:

Section 1. Article 9 of Chapter 136 of the General Statutes is hereby amended by adding a new section thereto to be numbered and to read as follows:

"§ 136-121.1. A property owner whose property is totally taken in fee simple by any condemning agency (as defined in G.S. 133-7(1)) exercising the power of eminent domain, under this Chapter or any other statute or charter provision, shall be entitled to reimbursement from the condemning agency of the pro-rata portion of real property taxes paid which are allocable to a period subsequent to vesting of title in the agency, or the effective date of possession of such real property, whichever is earlier."

Sec. 2. This act shall become effective January 1, 1976.

In the General Assembly read three times and ratified, this the 29th day of May, 1975.

H. B. 941 **CHAPTER 440**

AN ACT TO AMEND G.S. 66-84 SO AS TO INCLUDE JOHNSTON COUNTY UNDER ARTICLE 17, CHAPTER 66 "CLOSING-OUT SALES".

The General Assembly of North Carolina enacts:

Section 1. G.S. 66-84 is hereby amended by inserting the word "Johnston" between the words "Jackson" and "Lee".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of May, 1975.

H. B. 471 **CHAPTER 441**

AN ACT TO EXTEND THE TIME FOR SUBMISSION OF NAMES OF NOMINEES FOR VACANCIES IN A DISTRICT COURT JUDGESHIP.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-142 is hereby amended by striking therefrom the word "two" appearing in the fourth line of that section and substituting therefor the word "four".

Sec. 2. This bill shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of May, 1975.

H. B. 559

CHAPTER 442

AN ACT TO AMEND G.S. 90-91(b) RELATING TO THE SCHEDULING OF BARBITURATE SUPPOSITORIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-91(b), as the same appears in the 1974 Cumulative Supplement to Volume 2C of the General Statutes, is hereby amended by adding the following new subdivisions at the end thereof:

"11. Any compound, mixture or preparation containing

(i) Amobarbital

(ii) Secobarbital

(iii) Pentobarbital

or any salt thereof and one or more active ingredients which are not included in any other schedule.

"12. Any suppository dosage form containing

(i) Amobarbital

(ii) Secobarbital

(iii) Pentobarbital

or any salt of any of these drugs and approved by the Federal Food and Drug Administration for marketing as a suppository."

Sec. 2. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 30th day of May, 1975.

H. B. 560

CHAPTER 443

AN ACT TO AMEND G.S. 90-89 AND 90-90 RELATING TO THE SCHEDULING OF THE SUBSTANCE ETORPHINE HYDROCHLORIDE AND OTHER SCHEDULE II CONTROLLED SUBSTANCES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-89, as the same appears in the 1974 Cumulative Supplement to Volume 2C of the General Statutes, is hereby amended by rewriting subdivision (b) 9. to read as follows:

"9. Etorphine (except hydrochloride salt)."

Sec. 2. G.S. 90-90(a), as the same appears in the 1974 Cumulative Supplement to Volume 2C of the General Statutes, is hereby amended as follows:

(a) By rewriting subdivision 1 as follows:

"1. Opium and opiate and any salt, compound, derivative or preparation of opium or opiate excluding naloxone and its salts, and excluding naltrexone and its salts, but including the following:

(i) Raw opium

(ii) Opium extracts

(iii) Opium fluid extracts

(iv) Powdered opium

(v) Granulated opium

(vi) Tincture of opium

(vii) Apomorphine

(viii) Codeine

(ix) Ethylmorphine
(x) Etorphine Hydrochloride
(xi) Hydrocodone
(xii) Hydromorphone
(xiii) Metopon
(xiv) Morphine
(xv) Oxycodone
(xvi) Oxymorphone
(xvii) Thebaine."

(b) By adding a new subdivision 5 as follows:

"5. Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid or powder from which contains the phenanthrine alkaloids of the opium poppy)."

Sec. 3. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 30th day of May, 1975.

H. B. 581 CHAPTER 444

AN ACT INCREASING THE UNIFORM JAIL FEE TO FIVE DOLLARS ($5.00) PER DAY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-313, as the same appears in the 1974 Cumulative Supplement to Volume 1B of the General Statutes, is hereby amended by changing the words and symbols "three dollars ($3.00)" appearing therein to "five dollars ($5.00)".

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 30th day of May, 1975.

H. B. 880 CHAPTER 445

AN ACT TO PROVIDE THAT, FOR PURPOSES OF THE DRIVER LICENSE ARTICLE OF CHAPTER 20, A DEFENDANT WHO HAS FAILED TO APPEAR OVER 90 DAYS FOR A TRAFFIC OFFENSE SHALL BE DEEMED CONVICTED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-24(c) is hereby amended to add a sentence as follows: "Also, a defendant shall be treated for the purposes of this Article as having been convicted of any offense under this Chapter as to which he:

(1) Has been served with process under Article 17, Criminal Process, Chapter 15A of the General Statutes;

(2) Has failed to appear upon due call of the case; and

(3) Has failed within 90 days thereafter to submit himself to the jurisdiction of the court to answer the charge."

Sec. 2. This act shall become effective on October 1, 1975.

In the General Assembly read three times and ratified, this the 30th day of May, 1975.

S. B. 592

CHAPTER 446

AN ACT TO PROVIDE STAGGERED TERMS OF FOUR YEARS FOR THE BOARD OF COUNTY COMMISSIONERS OF PERSON COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 215, Session Laws 1963, is amended by rewriting the second unnumbered paragraph of Section 2 thereof to read as follows:

"In the primary and general elections in 1976, there shall be nominated and elected five members to the Board of County Commissioners of Person County. The three candidates with the highest number of votes in the general election of 1976 shall be elected for a term of four years. The remaining two candidates shall be elected for a term of two years. Thereafter all candidates shall be elected for terms of four years."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of June, 1975.

S. B. 655

CHAPTER 447

AN ACT TO AMEND G.S. 62-300 and G.S. 62-266 TO INCREASE CERTAIN STATUTORY FEES AND CHARGES FOR FILING PROCEEDINGS AND RE-REGISTRATION OF MOTOR CARRIER EQUIPMENT WITH THE UTILITIES COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 62-300 is hereby amended by rewriting subsection (a) of said section to read as follows:

"(a) The commission shall receive and collect the following fees and charges in accordance with the classification of utilities as provided in rules and regulations of the commission, and no others:

(1) Twenty-five dollars ($25.00) with each notice of appeal to the Court of Appeals, and with each notice of application for a writ of certiorari.

(2) With each application for a new certificate or new permit for motor and rail carrier rights, the fee shall be two hundred fifty dollars ($250.00) when filed by Class 1 motor and rail carriers, one hundred dollars ($100.00) when filed by Class 2 motor and rail carriers, and twenty-five dollars ($25.00) when filed by Class 3 motor and rail carriers, and twenty-five dollars ($25.00) as filing fee for any amendment thereto so as to extend or enlarge the scope of operations thereunder, and twenty-five dollars ($25.00) for each broker who applies for a brokerage license under the provisions of this Chapter.

(3) With each application for a general increase in rates, fares and charges and for each filing of a tariff which seeks general increases in rates, fares and charges, the fee will be five hundred dollars ($500.00) for Class A utilities and Class 1 motor and rail carriers, two hundred fifty dollars ($250.00) for Class B utilities and Class 2 motor and rail carriers, one hundred dollars ($100.00) for Class C utilities and twenty-five dollars ($25.00) for Class D utilities and Class 3 motor and rail carriers; provided that in the case of an application or tariff for a general increase in rates filed by a tariff agent for more than one carrier, the applicable fee shall be the highest fee prescribed for any motor carrier included in the application or tariff. This fee shall not apply to applications for adjustments in particular rates, fares, or charges for the purpose of eliminating

inequities, preferences or discriminations or to applications to adjust rates and charges based solely on the increased cost of fuel used in the generation or production of electric power.

(4) One hundred dollars ($100.00) with each application for discontinuance of train service, or for a change in or discontinuance of station facilities and with each application by a motor carrier of passengers for the abandonment or permanent or temporary discontinuance of transportation service previously authorized in a certificate.

(5) With each application for a certificate of public convenience and necessity or for any amendment thereto so as to extend or enlarge the scope of operations thereunder, the fee shall be two hundred fifty dollars ($250.00) for Class A utilities, one hundred dollars ($100.00) for Class B utilites, and twenty-five dollars ($25.00) for Class C and D utilities.

(6) With each application for approval of the issuance of securities or for the approval of any sale, lease, hypothecation, lien, or other transfer of any property or operating rights of any carrier or public utility over which the commission has jurisdiction, the fee shall be two hundred fifty dollars ($250.00) for Class A utilities and Class 1 motor and rail carriers, one hundred dollars ($100.00) for Class B utilities and Class 2 motor and rail carriers, and twenty-five dollars ($25.00) for Class C and D utilities and Class 3 motor and rail carriers; provided, that in the case of sales, leases and transfers between two or more carriers or utilities, the applicable fee shall be the highest fee prescribed for any party to the transaction.

(7) Ten dollars ($10.00) with each application, petition, or complaint not embraced in (2) through (6) of this section, wherein such application, petition, or complaint seeks affirmative relief against a carrier or public utility over which the commission has jurisdiction. This fee shall not apply to applications for adjustments in particular rates, fares or charges for the purpose of eliminating inequities, preferences or discriminations; nor shall this fee apply to applications, petitions, or complaints made by any county, city or town; nor shall this fee apply to applications or petitions made by individuals seeking service from a public utility.

(8) One dollar ($1.00) for the registration with the commission of each motor vehicle to be put in operation by a motor carrier operating under the jurisdiction of the commission, and a fee of one dollar ($1.00) for the annual re-registration of each such motor vehicle.

(9) Thirty cents (30¢) for each page (8 1/2 x 11 inches) of transcript of testimony, but not less than five dollars ($5.00) for any such transcript.

(10) Twenty cents (20¢) for each page reproduced by photostatic or similar process and for each page of an order which can be made available without the necessity of copying or reproduction.

(11) Twenty-five dollars ($25.00) for the filing with the commission of the interstate motor carrier operating authority or registration of interstate exempt operation of every motor carrier operating into, from within, or through North Carolina and filed with the commission under the provisions of G.S. 62-266 and five dollars ($5.00) for filing all subsequent amendments thereto to maintain said filing in a current status.

(12) One dollar ($1.00) for the registration with the commission of each motor vehicle operated into, from, within, or through North Carolina by interstate carriers and registered with the commission under the provisions of

G.S. 62-266, and a fee of one dollar ($1.00) for the annual re-registration of each such motor vehicle."

Sec. 2. G.S. 62-266 is amended by rewriting subsection (c) thereof through the figures "62-300(13)" in line 7 to read as follows:

"(c) Any person operating a for-hire motor vehicle in interstate commerce over the highways of this State without having properly registered with the Utilities Commission, its respective exempt operation, or a copy of its interstate authority and each vehicle operated in this State shall be subject to a penalty of twenty-five dollars ($25.00), which shall be added to the registration fees provided in G.S. 62-300."

Sec. 3. This act shall be in full force and effect upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of June, 1975.

S. B. 716 CHAPTER 448

AN ACT TO AMEND CHAPTER 162A OF THE GENERAL STATUTES BY ADDING THERETO A NEW SECTION NUMBERED G.S. 162A-77.1 TO AUTHORIZE ELECTIONS UPON THE QUESTION OF MERGERS OF METROPOLITAN SEWERAGE DISTRICTS INTO CITIES OR TOWNS.

The General Assembly of North Carolina enacts:

Section 1. A new G.S. 162A-77.1 of the General Statutes of North Carolina is hereby enacted to read as follows:

"§ 162A-77.1. *Special election upon the question of the merger of metropolitan sewerage districts into cities or towns.*—Any district lying entirely within the corporate limits of a city or town may be merged into such city or town in accordance with the provisions of this section.

The governing body of a city or town, with the approval of the district board, shall call and conduct a special election within such city or town on the question of the merger of the district into the city or town. A vote in favor of such merger shall constitute a vote for such city or town to assume the obligations of the district. Such special election may be called and conducted by the governing body of a city or town upon its own motion after passage of a resolution of the district board requesting or approving the special election.

A new registration of voters shall not be required for the special election. The special election shall be conducted in accordance with the provisions of law applicable to regular elections in the city or town.

If a majority of the votes are in favor of the merger, then:

(1) All property, real and personal and mixed, including accounts receivable, belonging to such district shall vest in, belong to, and be the property of, such city or town. All district boards are hereby authorized to take such actions and to execute such documents as will carry into effect the provisions and the intent of this section.

(2) All judgments, liens, rights of liens, and causes of action of any nature in favor of such district shall vest in and remain and inure to the benefit of such city or town.

(3) All taxes, assessments, sewer charges, and any other debts, charges or

fees, owing to such district shall be owed to and collected by such city or town.

(4) All actions, suits and proceedings pending against, or having been instituted by, such district shall not be abated by this section or by the merger herein provided for, but all such actions, suits, and proceedings shall be continued and completed in the same manner as if merger had not occurred, and such city or town shall be a party to all such actions, suits, and proceedings in the place and stead of the district and shall pay or cause to be paid any judgments rendered against the district in any such actions, suits, or proceedings. No new process need be served in any such action, suit, or proceeding.

(5) All obligations of the district, including outstanding indebtedness, shall be assumed by such city or town, and all such obligations and outstanding indebtedness shall constitute obligations and indebtedness of such city or town, and the full faith and credit of such city or town shall be deemed to be pledged for the punctual payment of the principal of and the interest on any general obligation bonds or bond anticipation notes of such district, and all the taxable property within such city or town, as well as that formerly located within the district, shall be and remain subject to taxation for such payment.

(6) All ordinances, rules, regulations, and policies of such district shall continue in full force and effect until repealed or amended by the governing body of such city or town.

(7) Such district shall be abolished, and shall no longer be constituted a public body or a body politic and corporate, except for the purposes of carrying into effect the provisions and the intent of this section.

If a majority of the votes are against the merger, then such merger shall not be effective unless approved by a majority of the qualified voters who vote thereon in a subsequent special election conducted under authority of this section.

Any action or proceeding in any court to set aside a special election held under authority of this section or the result thereof, or to obtain any other relief upon the ground that such election or any proceeding or action taken with respect to the holding of such election is invalid, must be commenced within 30 days after the day of such special election. After the expiration of such period of limitation, no right of action or defense founded upon the invalidity of the election or the result thereof shall be asserted, nor shall the validity of the election or of the result thereof be open to question in any court upon any ground whatever, except in an action or proceeding commenced within such period."

Sec. 2. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 2nd day of June, 1975.

H. B. 443

CHAPTER 449

AN ACT TO MAKE BLOOD TEST FOR DETERMINING PATERNITY CONCLUSIVE WHERE THEY ARE UNCONTROVERTED AND RELIABLY CONDUCTED.

The General Assembly of North Carolina enacts:

Section 1. North Carolina General Statutes 8-50.1 as the same presently appears in the 1969 Replacement Volume 1B of the General Statutes of North Carolina is hereby amended to delete the last sentence of the first paragraph thereof reading: "Such evidence shall be competent to rebut any presumption of paternity." and to substitute therefor the following new sentence:

"In any such case, where the result of such blood test is not shown to conflict with the result of any other such blood tests, and where the result of such blood test indicates that the defendant cannot be the father of the child, the jury shall be instructed that if they believe the witness presenting the result testified truthfully as to it, and if they believe that the test was conducted properly, then it will be their duty to return a verdict of not guilty."

Sec. 2. North Carolina General Statutes 8-50.1 as the same presently appears in the 1969 Replacement Volume 1B of the General Statutes of North Carolina is hereby amended to add the following new sentence at the end of the second paragraph thereof:

"In any such case, where the result of such blood test is not shown to conflict with the result of any other such blood tests, and where the result of such blood test indicates that the defendant cannot be the father of the child, the jury shall be instructed that if they believe the witness presenting the result testified truthfully as to it, and if they believe that the test was conducted properly, then it will be their duty to return a verdict in favor of the defendant."

Sec. 3. North Carolina General Statutes 49-7 as the same presently appears in the 1974 Cumulative Supplement to the 1966 Replacement Volume 2A of the General Statutes of North Carolina is hereby amended by rewriting the last paragraph thereof as follows:

"The court before whom the matter may be brought on motion of the defendant, shall direct an order that the defendant, the mother, and the child shall submit to a blood grouping test; and the court in its discretion may require the person requesting a blood grouping test to pay the cost thereof. The result of any such blood grouping test shall be admitted in evidence when offered by a duly licensed practicing physician or duly qualified person, and the evidentiary effect of such blood grouping test shall be as prescribed in G.S. 8-50.1, and, if a jury shall try the issue, it shall be instructed as set out therein. From a finding of the issue of paternity against the defendant, the defendant shall have the same right of appeal as though he had been found guilty of the crime of willful failure to support a bastard child."

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of June, 1975.

H. B. 587 **CHAPTER 450**

AN ACT TO AMEND CHAPTER 148 OF THE GENERAL STATUTES TO PERMIT NORTH CAROLINA SENTENCE TO BE SERVED IN ANOTHER JURISDICTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 148-62 is amended by adding the following sentence at the end thereof:

"The commission's authority under this section shall apply to both in-state and out-of-state parolees from sentences in this State."

Sec. 2. Article 4A of Chapter 148 of the General Statutes, as it presently appears in the Volume 3C of the 1974 Replacement Volume of the General Statutes of North Carolina, is hereby amended by adding a new Section 148-65.3 to read as follows:

"§ 148-65.3. *North Carolina sentence to be served in another jurisdiction.*— The Parole Commission, with the concurrence of the Secretary of Correction, may direct that the balance of any sentence imposed by the courts of this State shall be served concurrently with a sentence or sentences in another state or federal institution, and may effect a transfer of custody of such individual to the other jurisdiction for such purpose. In the event the individual's sentence liability in the other jurisdiction terminates prior to the expiration of his North Carolina sentence, the individual shall be either paroled (if eligible) or returned to the prison department of this State, in the discretion of the Parole Commission."

Sec. 3. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of June, 1975.

H. B. 634 **CHAPTER 451**

AN ACT TO AUTHORIZE THE BOARD OF TRANSPORTATION TO ADMINISTER FEDERAL PROGRAMS RELATING TO MASS TRANSPORTATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. Chapter 136 is hereby amended by adding a new Article 2B to read as follows:

"ARTICLE 2B.

"Mass Transportation.

"§ 136-44.20. The Board of Transportation is hereby designated as the agency of the State of North Carolina responsible for administering all federal programs relating to mass transportation, and the board is hereby granted the authority to do all things required under applicable federal legislation to administer properly the federal mass transportation programs within the State of North Carolina. Nothing herein shall be construed to prevent a political subdivision of the State of North Carolina from applying for and receiving direct assistance from the United States government under the provisions of any applicable federal legislation."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of June, 1975.

H. B. 713 CHAPTER 452

AN ACT TO AMEND THE COASTAL AREA MANAGEMENT ACT OF 1974 TO ALLOW LOCAL AND STATE GOVERNMENT AGENCIES ADDITIONAL TIME IN WHICH TO COMPLETE CERTAIN REQUIREMENTS OF THE ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113A-109, as the same appears in the 1974 Cumulative Supplement to Volume 3A of the North Carolina General Statutes, is hereby amended by deleting in line 8 the number "300" and substituting therefor the number "480".

Sec. 2. G.S. 113A-116 as the same appears in the 1974 Cumulative Supplement to Volume 3A of the North Carolina General Statutes is hereby amended by deleting the words "one year" in the first sentence of said section and substituting therefor the words "two years".

Sec. 3. G.S. 113A-117 as the same appears in the 1974 Cumulative Supplement to Volume 3A of the North Carolina General Statutes is hereby amended by deleting the number "14" in the twelfth line of subsection (a) and substituting therefor the number "20" and by deleting the number "20" in lines 3 and 6 of subsection (b) of said section and substituting therefor in both line 3 and line 6 the number "36".

Sec. 4. G.S. 113A-125(a) as the same appears in the 1974 Cumulative Supplement to Volume 3A of the North Carolina General Statutes is hereby amended by deleting the number "27" in the first sentence of said subsection and substituting therefor the number "44".

Sec. 5. 1974 Session Laws, Chapter 1284, Section 3 is hereby amended by deleting the numbers "1981" at the end of the sentence and by inserting in lieu thereof the numbers "1983".

Sec. 6. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of June, 1975.

H. B. 843 CHAPTER 453

AN ACT TO AMEND G.S. 18A-15(13) TO APPLY TO SPIRITOUS LIQUORS ONLY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 18A-15(13) is hereby amended by deleting the term "alcoholic beverages" at every point at which that term appears within said subsection and by substituting for that term, at every point of deletion, the term "spiritous liquors".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of June, 1975.

H. B. 908 CHAPTER 454

AN ACT TO VALIDATE CERTAIN FORECLOSURE SALES TAKING PLACE PRIOR TO MARCH 1, 1974.

The General Assembly of North Carolina enacts:

Section 1. G.S. 45-21.42 is hereby amended by deleting in the second sentence thereof the words "fifty-seven" and by inserting in lieu thereof the words "seventy-four".

Sec. 2. G.S. 45-21.44 is hereby amended by deleting in the first sentence thereof the words "February 1, 1968" and inserting in lieu thereof the words "March 1, 1974".

Sec. 3. This act shall not apply to or affect pending litigation.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of June, 1975.

H. B. 935 CHAPTER 455

AN ACT TO AMEND G.S. 160A-274 TO AUTHORIZE ANY COUNTY BOARD OF EDUCATION OR BOARD OF EDUCATION FOR ANY CITY ADMINISTRATIVE UNIT TO LEASE UNNECESSARY OR NONUSED SCHOOL PROPERTY OWNED BY THE BOARD TO OTHER GOVERNMENTAL AGENCIES FOR ONE DOLLAR ($1.00) PER YEAR.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-274 is amended by adding at the end thereof the following proviso:

"Provided, any county board of education or board of education for any city administrative unit may, upon such terms and conditions as it deems wise, lease to another governmental unit for one dollar ($1.00) per year any real property owned or held by the board which has been determined by the board to be unnecessary or undesirable for public school purposes."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of June, 1975.

H. B. 1016 CHAPTER 456

AN ACT TO AMEND SECTION 229 CHAPTER 113 OF THE GENERAL STATUTES RELATING TO PERMITS TO DREDGE OR FILL IN OR ABOUT ESTUARINE WATERS OR STATE OWNED LAKES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-229(a) is amended by placing between the terms "(a)" and "Before" the following: "Except as hereinafter provided."

Sec. 2. G.S. 113-229(e) is amended by placing between the sentence ending "to protect the public interest with respect to the factors enumerated in this subsection." and the sentence beginning "The department shall act ", the following: "Permits may allow for projects granted a permit the right to maintain such project for a period of up to 10 years. The right to maintain such project shall be granted subject to such conditions as may be reasonably necessary to protect the public interest. The Marine Fisheries Commission shall

by rule, after at least two public hearings, enumerate such conditions as it deems necessary to carry out the purposes of this subsection. Maintenance work as defined in this subsection shall be limited to such activities as are required to maintain the project dimensions as found in the permit granted."

Sec. 3. G.S. 113-229(e) is amended by placing between the words "permits" and "shall" in the first sentence the following: "except special emergency permit applications,".

Sec. 4. G.S. 113-229(e) is further amended by placing between the words "filed" and "and" in the last sentence the following: "except for applications for a special emergency permit in which case the department shall act within two working days after an application is filed."

Sec. 5. G.S. 113-229(d) is amended by placing between the terms "(d)" and "The applicant" the following: "Except in the case of an application for a Special Emergency Dredge or Fill Permit."

Sec. 6. G.S. 113-229(d) is further amended by adding the following: "In this case of a Special Emergency Dredge or Fill Permit the applicant must certify that he took all reasonable steps to notify adjacent riparian owners of the application for a Special Emergency Dredge and Fill Permit prior to submission of the application. Upon receipt of this certification, the secretary shall issue or deny the permit within the time period specified in (e) of this section, upon the express understanding from the applicant that he will be entirely liable and hold the State harmless for all damage to adjacent riparian landowners directly and proximately caused by the dredging or filling for which approval may be given."

Sec. 7. G.S. 113-229 is further amended by inserting a new subsection (f) to be placed after present subsection (e) as follows: "(f) The Secretary of the Department of Natural and Economic Resources is empowered to issue special Emergency Dredge or Fill Permits upon application. Emergency permits may be issued only when life or structural property is in imminent danger as a result of rapid recent erosion or sudden failure of a man-made structure. The Marine Fisheries Commission may, after public hearings, elaborate by rule on upon what conditions the secretary may issue a Special Emergency Dredge or Fill Permit. The secretary may condition the Emergency Permit upon any reasonable conditions, consistent with the emergency situation, he feels are necessary to reasonably protect the public interest. Where an application for a Special Emergency Permit includes work beyond which the secretary, in his discretion, feels necessary to reduce imminent dangers to life or property he shall issue the Emergency Permit only for that part of the proposed work necessary to reasonably reduce the imminent danger. All further work must be applied for by application for an ordinary dredge or fill permit. The secretary shall deny an application for a Special Dredge or Fill Permit upon a finding that the detriment to the public, which would occur on issuance of the permit measured by the five factors in 113-229(e), clearly outweigh the detriment to the applicant if such permit application should be denied."

Sec. 8. Section 229 is further amended by redesignating the existing subsection "(f)" as subsection "(g)"; subsection "(g)" as subsection "(h)" and subsection "(n)" as subsection "(0)".

Sec. 9. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of June, 1975.

H. B. 1125 **CHAPTER 457**

AN ACT REVISING BENEFITS OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 135-1(5), as the same appears in the 1974 Replacement Volume of the General Statutes, is hereby amended by striking out the word "five" in line 2 thereof and inserting in lieu thereof the word "four".

Sec. 2. (a) The first four lines of G.S. 135-5(b4), as the same appear in the 1974 Replacement Volume of the General Statutes, are hereby amended by rewriting the same to read as follows:

"(b4) Service retirement allowances of members retiring on or after July 1, 1973, but prior to July 1, 1975. Upon retirement from service, in accordance with subsection (a) above, on or after July 1, 1973, but prior to July 1, 1975, a member shall receive a service retirement allowance computed as follows:".

(b) G.S. 135-5, as the same appears in the 1974 Replacement Volume of the General Statutes, is hereby further amended by the addition of a new subsection immediately after (b4) reading as follows:

"(b5) Service retirement allowances of members retiring on or after July 1, 1975. Upon retirement from service, in accordance with subsection (a) above, on or after July 1, 1975, a member shall receive a service retirement allowance computed as follows:

(1) If the member's service retirement date occurs on or after his sixty-fifth birthday, regardless of his years of creditable service, or after the completion of 30 years of creditable service, such allowance shall be equal to one and one-half percent (1-1/2%) of his average final compensation, multiplied by the number of years of his creditable service.

(2) If the member's service retirement date occurs before his sixty-fifth birthday and prior to his completion of 30 or more years of creditable service, his retirement allowance shall be computed as in (1) above, but shall be reduced by one quarter of one percent (1/4 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following his sixty-fifth birthday.

(3) Notwithstanding the foregoing provisions, any member whose creditable service commenced prior to July 1, 1963, shall receive not less than the benefit provided by G.S. 135-5(b)."

Sec. 3. G.S. 135-5(g), as the same appears in the 1974 Supplement to the General Statutes, is hereby amended by the addition of a new option to follow immediately after Option 5 and reading as follows:

"Option 6. A member may elect either Option 2 or Option 3 with the added provision that in the event the designated beneficiary predeceases the member, the retirement allowance payable to the member after the designated beneficiary's death shall be equal to the retirement allowance which would have been payable had the member not elected the option."

Sec. 4. G.S. 135-5, as the same appears in the 1974 Supplement to the General Statutes, is hereby further amended by the addition of a new subsection (v) reading as follows:

"(v) Notwithstanding any of the foregoing provisions, the increase in allowance to each beneficiary on the retirement rolls as of July 1, 1974, which shall become payable on July 1, 1975, and to each beneficiary on the retirement

rolls as of July 1, 1975, which shall become payable on July 1, 1976, as otherwise provided in G.S. 135-5(o), shall be the current maximum four percent (4%) plus an additional four percent (4%) to a total of eight percent (8%) for the years 1975 and 1976 only, provided that the increases do not exceed the actual percentage increase in the Consumer Price Index as determined in G.S. 135-5(o). The provisions of this subsection shall apply also to the allowance of a surviving annuitant of a beneficiary."

Sec. 5. (a) G.S. 135-8(b)(1), as the same appears in the 1974 Replacement Volume of the General Statutes, is hereby amended by inserting after the comma and before the word "the" in line 13 of the second paragraph the following: "and ending June 30, 1975,".

(b) G.S. 135-8(b)(1), as the same appears in the 1974 Replacement Volume of the General Statutes, is hereby further amended by adding a new paragraph at the end thereof, to read as follows:

"Notwithstanding the foregoing, effective July 1, 1975, with respect to the period of service commencing on July 1, 1975, the rate of such deductions shall be six per centum (6%) of the compensation received by any member. Such rates shall apply uniformly to all members of the Retirement System, without regard to their coverage under the Social Security Act."

Sec. 6. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 2nd day of June, 1975.

S. B. 659 **CHAPTER 458**

AN ACT TO CREATE THE NEW BERN ACADEMY HISTORICAL COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Creation and purposes. There is hereby created the New Bern Academy Historical Commission. The New Bern Academy Historical Commission shall have the following powers:

(a) To acquire and dispose of title to and interests in the historic property in Craven County known as the New Bern Academy and to repair, restore, and otherwise improve and maintain such property;

(b) To accept gifts of property whether real or personal, tangible or intangible, on such terms as the members of the New Bern Academy Historical Commission may deem just and appropriate;

(c) To carry out other programs reasonably related to these purposes.

Sec. 2. The Board of Education of the New Bern City Schools is hereby authorized and empowered to enter into an agreement for the transfer of the title to and interests in the New Bern Academy and such other of the surrounding real property as they may deem appropriate to the New Bern Academy Historical Commission, under such terms and conditions as they may deem just and proper. Such transfer is hereby declared to be for a public purpose and may be made without compensation to the Board of Education of the New Bern City Schools.

Sec. 3. Membership. The New Bern Academy Historical Commission shall consist of nine members to be appointed by the Craven County Board of Commissioners. Five members of the commission shall be appointed for terms of two years, commencing on August 1, 1975, or until their successors have been

appointed, and four members shall be appointed for terms of four years, commencing on August 1, 1975, or until their successors have been appointed. Thereafter all terms shall be for four years. Upon a vacancy in the office of any commissioner his successor shall be appointed by the Craven County Board of Commissioners to fill the unexpired term.

Sec. 4. Compensation. Members of the commission shall serve without compensation.

Sec. 5. Organization. At its first meeting the commission shall elect from among its members a chairman, vice-chairman, secretary, treasurer, and such other officers as the commission may determine, all of whom shall serve at the will of the commission. Vacancies in any office elected under this section shall be filled by the commission from among its members.

For the purpose of carrying out its duties, the commission shall have the authority to appoint such special committees, with such membership as it desires.

The commission is empowered to adopt rules of procedure with respect to the conduct of its affairs as it may deem appropriate, and shall determine its requirements for a quorum.

Sec. 6. Meetings. The commission shall hold regular meetings at places and dates to be determined by the commission. Special meetings may be called by the chairman upon his own initiative and must be called by him if requested by three or more members of the commission. The chairman shall notify in writing all commission members of any special meeting at least three days prior to any such meeting. Meetings may be held inside or outside Craven County, and shall be open to the public.

Sec. 7. Financing. (a) The commission shall prepare an annual report of its activities, holdings, and finances, including an audit of its accounts by a certified public accountant, for the Craven County Board of Commissioners. The commission is also authorized to accept gifts from any person, firm, or corporation, upon terms acceptable to the commission. Appropriations to the commission from any government body are hereby declared to be for a public purpose.

(b) The commission may contract with Craven County or private persons or firms for provision of accounting services. Generally accepted accounting principles shall be followed.

Sec. 8. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of June, 1975.

S. B. 721 **CHAPTER 459**

AN ACT TO PERMIT THE DISTRICT ATTORNEY TO REPRESENT THE PUBLIC INTEREST IN INVOLUNTARY COMMITMENT CASES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 122-58.7(b) is hereby amended to read as follows:

"§ 122-58.7(b). The district attorney may represent the petitioner in cases of significant public interest."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of June, 1975.

H. B. 167

CHAPTER 460

AN ACT TO PROVIDE FOR THE ELECTION OF MEMBERS OF THE COLUMBUS COUNTY PUBLIC SAFETY COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Chapter 101, Session Laws of 1973, is amended by rewriting Section 1 to read:

"Section 1. The Columbus County Public Safety Commission shall be composed of five members who shall be citizens of the county and who shall be elected by the voters of the county for terms of four years as herein provided. The election shall be nonpartisan and no primary election shall be held and no party affiliation shall appear on the ballot.

The election shall be held at the same time as the regular primary for county officers and, except as otherwise provided herein, shall be held and conducted in accordance with the State law regulating general elections in the State.

Beginning with the regular primary election for county officers to be held in 1976, five members shall be elected to the Columbus County Public Safety Commission. The two candidates receiving the highest number of votes cast shall be elected for terms of four years, and the three candidates receiving the next highest number of votes cast shall be elected for terms of two years. Thereafter, as the terms of the members expire their successors shall be elected for terms of four years. Members shall be eligible for reelection to successive terms.

The members elected in 1976, and thereafter, shall take an oath of office and their term shall begin five days after the certification of the results of the election by the county board of elections. The commission shall hold its organizational meeting on the day the terms begin, and shall elect from the membership a chairman and secretary. The chairman shall serve for a term of two years and shall be eligible to succeed himself. The chairman shall have the same voting rights as other members of the commission.

Three members shall constitute a quorum for the transaction of business.

Members of the commission shall receive the same per diem compensation as members of the Columbus County Board of Commissioners.

Any vacancy on the commission because of death, resignation, removal from the county or for any reason, shall be filled within 15 days by the remaining members of the commission, and the person appointed shall serve for the unexpired term of the member causing the vacancy. In the event there is a tie vote for the filling of a vacancy, the resident superior court judge shall, within 15 days, cast the deciding vote. In the event the remaining members do not appoint some person to fill the vacancy within 15 days after it occurs, the resident superior court judge shall appoint some person to fill the vacancy."

Sec. 2. The terms of those persons appointed as members of the Columbus County Public Safety Commission pursuant to Section 1 of Chapter 311, Session Laws of 1973, are hereby extended or reduced, as the case may be, to expire on the day the members elected in 1976 take office.

In addition to the five incumbent members of the Columbus County Public Safety Commission, there shall be added to said commission five new commissioners, to wit: Miles Williams, Rt. 1, Clarendon, N. C.; Bill Waddell, Rt. 1, Fair Bluff, N. C.; Robert C. Stanley, Rt. 3, Whiteville, N. C.; E. S. Jacobs, Rt. 1, Bolton, N. C.; and Donald Marks, Rt. 1, Riegelwood, N. C., who shall take

an oath of office and their term shall begin five days after ratification of this act. These additional five commissioners and the five incumbent members of the Columbus County Public Safety Commission shall serve until the election herein provided for of the five members of the Columbus County Public Safety Commission and until said elected members have qualified and taken office.

From the date the five new members qualify for office all 10 members shall receive one-half the per diem compensation of members of the Columbus County Board of Commissioners until the election herein provided for and the qualification of the newly elected five members who shall thereafter receive the same per diem compensation of the Columbus County Board of Commissioners.

Sec. 3. Section 2 of Chapter 311, Session Laws of 1973, is hereby repealed.

Sec. 4. On or after January 1, 1977, the Columbus County Public Safety Commission is hereby authorized to create five residence districts in Columbus County for the purpose of electing members of the Columbus County Public Safety Commission as herein provided.

(a) The commission shall first adopt a resolution of intent which shall (1) describe the five residence districts to be created; (2) state that one member of the Columbus County Public Safety Commission will be elected from each of the districts, and shall be elected by the voters of the entire county; and (3) set a date for a public hearing at which any person may be heard.

(b) The resolution of intent and a notice of the public hearing shall be published at least once a week for two weeks prior to the date set for the public hearing. After the public hearing the Columbus County Public Safety Commission may adopt a resolution finding that it is in the best interest of law enforcement and public safety in Columbus County to create residence districts for the purpose of electing members of the Columbus County Public Safety Commission. If the resolution is adopted it shall describe the residence districts, which need not be those described in the resolution of intent, and shall state that one member from each of the districts shall be elected to the Columbus County Public Safety Commission by the qualified voters of the county.

(c) The resolution shall not be effective unless adopted 30 days prior to the last day that notice of candidacy must be filed for candidates desiring to run in the primary election. The resolution shall be filed with the Columbus County Board of Elections and the State Board of Elections, and shall be published in a newspaper having general circulation in the county at least once a week for two weeks immediately after its adoption.

(d) Upon adoption of the resolution as provided herein one member of the Columbus County Public Safety Commission shall be elected from each of the five districts described in the resolution. Only qualified voters who reside in the district shall be eligible to hold office. In the election, the candidate from each district receiving the highest number of votes shall be elected. The candidates shall be elected by the voters of the entire county, and vacancies on the commission occurring because of death, resignation, removal from the county or any other reason shall be filled within 15 days by the remaining members of the commission and the person appointed shall be a qualified voter residing in the district where the vacancy occurred and the person appointed shall serve for the unexpired term of the member causing the vacancy. In the event there is a tie vote for filling of a vacancy, the resident superior court judge shall within 15 days cast the deciding vote. In the event the remaining members of the

commission do not appoint some person to fill the vacancy within 15 days after it occurs the resident superior court judge shall appoint some person to fill the vacancy.

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of June, 1975.

H. B. 179 CHAPTER 461

AN ACT TO AMEND CHAPTER 44A TO CREATE A LIEN IN FAVOR OF THOSE WHO PROCESS TEXTILE GOODS AND YARNS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 44A-2, as the same appears in the 1974 Cumulative Supplement to Volume 2A of the General Statutes, is amended by adding a new section (f) thereto to read as follows:

"(f) Any person who improves any textile goods in the ordinary course of his business pursuant to an express or implied contract with the owner or legal possessor of such goods shall have a lien upon all goods of such owner or possessor in his possession for improvement. The amount of such lien shall be for the entire unpaid contracted charges owed such person for improvement of said goods including any amount owed for improvement of goods, the possession of which may have been relinquished, and such lien shall have priority over perfected and unperfected security interests. 'Goods' as used herein includes any textile goods, yarns or products of natural or man-made fibers or combination thereof. 'Improve' as used herein shall be construed to include processing, fabricating or treating by throwing, spinning, knitting, dyeing, finishing, fabricating or otherwise."

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 3rd day of June, 1975.

H. B. 344 CHAPTER 462

AN ACT TO PERMIT FARMERS LEASING VEHICLES TO OBTAIN FARM PLATES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-50 is hereby amended by inserting immediately after the period following the word "owner" and immediately before the word "The" in line 15 thereof the words "Provided further that when the owner of a vehicle leases such vehicle to a farmer and it is actually used by such farmer in the operation of his farm, the registration plates may be obtained by the farmer at the applicable farmer rate, upon written consent of the owner, after the certificate of title has been obtained by the owner."

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 3rd day of June, 1975.

H. B. 477 **CHAPTER 463**

AN ACT TO PROHIBIT DISCRIMINATION IN EMPLOYMENT AGAINST ANY PERSON POSSESSING THE SICKLE CELL TRAIT.

The General Assembly of North Carolina enacts:

Section 1. Chapter 95 of the General Statutes of North Carolina is amended by inserting therein a new section to be designated G.S. 95-28.1 and to read as follows:

"§ 95-28.1. *Discrimination against any person possessing Sickle Cell Trait or Hemoglobin C Trait prohibited.*—No person, firm, corporation, unincorporated association, State agency, unit of local government or any public or private entity shall deny or refuse employment to any person or discharge any person from employment on account of the fact such person possesses Sickle Cell Trait or Hemoglobin C Trait. The term 'sickle cell trait' is defined as the condition wherein the major natural hemoglobin components present in the blood of the individual are hemoglobin A (normal) and hemoglobin S (sickle hemoglobin) as defined by standard chemical and physical analytic techniques, including electrophoresis; and the proportion of hemoglobin A is greater than the proportion of hemoglobin S or one natural parent of the individual is shown to have only normal hemoglobin components (hemoglobin A, hemoglobin A2, hemoglobin F) in the normal proportions by standard chemical and physical analytic tests. The term 'hemoglobin C trait' is defined as the condition wherein the major natural hemoglobin components present in the blood of the individual are hemoglobin A (normal) and hemoglobin C as defined by standard chemical and physical analytic techniques, including electrophoresis; and the proportion of hemoglobin A is greater than the proportion of hemoglobin C or one natural parent of the individual is shown to have only normal hemoglobin components (hemoglobin A, hemoglobin A2, hemoglobin F) in the normal proportions by standard chemical and physical analytic tests, provided, however, that this act shall not be construed to give employment, promotion, or layoff preference to persons who possess the above traits, or to prevent such persons being discharged for cause."

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 3rd day of June, 1975.

H. B. 621 **CHAPTER 464**

AN ACT ESTABLISHING AN ALTERNATIVE PROCEDURE FOR THE SHERIFF OF RANDOLPH COUNTY IN THE EXECUTION OF JUDGMENTS RENDERED IN EJECTMENT ACTIONS OR WRITS OF POSSESSION OF REAL PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. In addition to all other actions and procedures authorized by law when any judgment or order of court directs that the defendant be removed from and the plaintiff be put in possession of demised premises and when the defendant so removed leaves any articles of personal property in or about the premises the sheriff or other duly authorized officer serving execution of such judgment or serving such order may immediately remove or cause to be removed such articles of personal property as remain in or about the premises to

a place where such property may be stored. The officer removing such property shall make inventory by at least general description of the property removed, list the date of removal and the name of the person or firm whose possession the property was removed.

Sec. 2. When such articles of personal property removed as above stated have remained unclaimed by the person or firm who may be entitled thereto for a period of five days after such removal, or when such person or firm within five days after such removal has failed to move said property from its place of storage, the Sheriff of Randolph County may cause to be published one time in some newspaper published in said county a notice to the effect that such articles are in the custody of his department and requiring all persons or firms who may have or claim any interest therein to make and establish such claim or interest therein not later than 30 days from the date of publication of such notice or in default thereof such articles will be sold or otherwise disposed of. Such notice shall contain a brief description of said articles and such other information as the sheriff may consider necessary or advisable to reasonably inform the public as to the kind and the nature of the articles of personal property about which the notice relates.

Sec. 3. If said articles shall remain in the custody of the sheriff for a period of 30 days after the publication of the notice provided for in Section 2 above, then such property shall be deemed abandoned by the owner and the said sheriff is hereby authorized and empowered to sell the same at public auction for cash to the highest bidder either at the court house door of the county or at such place as such property may be stored, and at such sale to deliver the same to the purchaser or purchasers thereof.

Sec. 4. Before any sale of said property is made under the provisions of this act, however, the sheriff making the same shall first advertise the sale by publishing a notice thereof in some newspaper published in Randolph County at least one time not less than 10 days prior to the date of sale and by posting a notice of the sale at the court house door in Randolph County. Said notice shall specify the time and place of sale and contain a general description of the articles of property to be sold. It shall not be required that the sale lay open for increased bids or objections but it may be deemed closed when the purchaser at the sale pays the amount of the accepted bid.

Sec. 5. From the proceeds realized from the sale of said property the sheriff shall first pay the cost and the expense of the sale, and all other expenses incident to a compliance with this act and any balance remaining from the proceeds of such sale shall be paid within 30 days after the sale to the finance officer of Randolph County for the purpose of reimbursing the county for any expenses incurred in providing a place for storage of said property. In the event the said county has incurred no expense in providing a place of storage for the property then any balance remaining shall be transferred by the finance officer of the said county to the general funds of the county or to such specific fund as may be designated by the board of commissioners of said county.

Sec. 6. Neither the sheriff or any other person acting under his direction, control, or employ shall be liable for any damages or claims on account of any such sale or disposition of the property as provided in this act.

Sec. 7. This act shall apply only to Randolph County.

Sec. 8. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of June, 1975.

H. B. 797 CHAPTER 465

AN ACT TO PERMIT USE OF SCHOOL AND OTHER PUBLIC PROPERTY FOR POLITICAL PARTY MEETINGS.

The General Assembly of North Carolina enacts:

Section 1. Article 15 of Subchapter VI of Chapter 115 of the General Statutes is amended by adding a new section at the end thereof to read:

"§ 115-133.3. *School and public buildings used for political meetings.*—The governing authority having control over schools or other public buildings which have facilities for group meetings, or where polling places are located, is hereby authorized and directed to permit the use of such buildings without charge, except custodial and utility fees, by political parties, as defined in G. S. 163-96, for the express purpose of biennial precinct meetings and county and district conventions. Provided, that the use of such buildings by political parties shall not be permitted at times when school is in session or which would interfere with normal school activities or functions normally carried on in such buildings, and such use shall be subject to reasonable rules and regulations of the school boards and other governing authorities."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of June, 1975.

H. B. 802 CHAPTERR 466

AN ACT TO AMEND G.S. 97-103 TO PREVENT SUPERFLUOUS RISK EVALUATIONS PRIOR TO UTILIZATION OF THE WORKMEN'S COMPENSATION ASSIGNED RISK PLAN.

The General Assembly of North Carolina enacts:

Section 1. Subsection (b) of G.S. 97-103 is hereby amended by rewriting the first two sentences of said subsection to read as follows:

"(b) It shall be the duty of all companies underwriting workmen's compensation insurance in this State and being members of the Compensation Rating and Inspection Bureau of North Carolina, as defined in this section, to insure and accept any workmen's compensation insurance risk which shall have been certified to be 'difficult to place' by any fire and casualty insurance agent licensed in this State. When any such risk is called to the attention of the Compensation Rating and Inspection Bureau of North Carolina and it appearing that said risk is in good faith entitled to such coverage, the bureau shall fix the initial premium therefor, (subject to the approval of the Insurance Commissioner), and upon its payment said bureau shall designate a member whose duty it shall be to issue a standard workmen's compensation policy of insurance containing the usual and customary provisions found in such policies therefor."

Sec. 2. This act shall become effective September 1, 1975.

In the General Assembly read three times and ratified, this the 3rd day of June, 1975.

H. B. 812 **CHAPTER 467**

AN ACT TO AMEND CHAPTER 226 OF THE SESSION LAWS OF 1969.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 226 of the Session Laws of 1969 is hereby amended by adding at the end of the subsection numbered "1." a new sentence which shall read as follows: "Provided, that the board may in its discretion at the end of each fiscal year return to the profits of the board any or all funds, in excess of five thousand dollars ($5,000), which were appropriated but not expended for law enforcement during the previous fiscal year."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of June, 1975.

H. B. 826 **CHAPTER 468**

AN ACT TO RENDER THE FALSIFYING OF CERTIFICATES AND RECORDS REQUIRED BY ARTICLE 7 OF CHAPTER 130 OF THE GENERAL STATUTES AND OF ANY BIRTH CERTIFICATE OF ANOTHER STATE OR THE USE THEREOF A FELONY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-69 is hereby amended by adding the following subsection thereto:

"(c) Felonies. Any person, who for himself or as an officer, agent, or employee of any other person, or of any corporation or partnership, shall, for monetary consideration or other consideration of monetary value:

(1) Wilfully alter, otherwise than as provided by G.S. 130-60 or by law, or falsify any certificate or record required by this Article or any birth certificate of another state; wilfully alter or falsify any photocopy, certified copy, extract copy, or any document containing information obtained from an original, or copy, of any certificate or record required by this Article or of any birth certificate of another state; wilfully make or create any altered or falsified certificate or record required by this Article or any birth certificate of another state; wilfully use or attempt to use any falsified certificate or record required by this Article or any birth certificate of another state or any falsified photocopy, certified copy, extract copy, or any document containing information obtained from an original or copy, of any certificate or record required by this Article or of any birth certificate of another state for the purpose of attempting to prove or establish for any purpose whatsoever any matter purported to be shown thereon;

(2) Wilfully use or attempt to use with intent to deceive any certificate or record required by this Article or any birth certificate of another state knowing that such certificate or record was issued upon a record which is false in whole or in part or which pertains to another person; or

(3) Wilfully and knowingly furnish a certificate or record required by this Article or any birth certificate of another state with the intention that it be used by an unauthorized person or for an unauthorized purpose;

shall upon conviction thereof be guilty of a felony and shall be punished by imprisonment in the State prison for a term not exceeding five years or fine not exceeding five thousand dollars ($5,000), or both, in the discretion of the court."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of June, 1975.

H. B. 863 CHAPTER 469

AN ACT TO PROVIDE FOR THE COMPENSATION OF MEMBERS OF THE ONSLOW COUNTY BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. The members of the Onslow County Board of Education shall receive as compensation for out-of-town meetings of the board and the same compensation rate for travel necessarily incurred in the performance of all official duties as the State pays to its employees.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of June, 1975.

H. B. 867 CHAPTER 470

AN ACT TO AMEND CHAPTER 1060 OF THE 1971 SESSION LAWS TO MAKE SAID CHAPTER APPLY TO THE CITY OF WILLIAMSTON.

The General Assembly of North Carolina enacts:

Section 1. Chapter 1060 of the 1971 Session Laws is hereby amended by rewriting Section 4 thereof to read as follows:

"Sec. 4. This act shall apply only to Durham County, Lee County, Mecklenburg County, Robeson County, Sampson County, Wayne County, the City of Asheboro and the City of Williamston."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of June, 1975.

H. B. 965 CHAPTER 471

AN ACT TO AMEND G.S. 15A-943 TO MAKE MORE FLEXIBLE THE CALENDARING OF ARRAIGNMENTS IN CERTAIN COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-943 is amended by the addition of a new subsection thereto, to read as follows:

"(c) Notwithstanding the provisions of subsection (a) of this section, in any county where as many as three simultaneous sessions of superior court, whether criminal, civil, or mixed, are regularly scheduled, the prosecutor may calendar arraignments in any of the criminal or mixed sessions, at least every other week, upon any day or days of a session, and jury cases may be calendared for trial in any other court at which criminal cases may be heard, upon such days."

Sec. 2. This act shall become effective on the same date as Chapter 1286, S.L. 1973 (G.S. Chapter 15A) becomes effective.

In the General Assembly read three times and ratified, this the 3rd day of June, 1975.

H. B. 1007 **CHAPTER 472**

AN ACT TO AMEND CHAPTER 385, SESSION LAWS, 1949, RELATING TO THE SCHOOLS OF THE GREENSBORO CITY ADMINISTRATIVE UNIT AND THE APPOINTMENT OF THE GOVERNING BODY THEREOF.

The General Assembly of North Carolina enacts:

Section 1. Section 2.2 of Article 4, Chapter 385, Session Laws, 1949, is hereby amended by rewriting Subsection (b) contained therein to read as follows:

"(b) The City Council of the City of Greensboro shall appoint all seven members of the board. Each member so appointed shall be appointed to serve for a term of four years beginning April 1, and until his successor is appointed and qualified."

Sec. 2. Carson Bain, the present member on the Greensboro City Board of Education appointed by the Guilford County Board of Education, shall continue to serve as a member of the Greensboro City Board of Education until his term expires. In the event Mr. Bain's position becomes vacant for whatever reason, the vacancy shall be filled by the remaining members of the Greensboro City Board of Education for the unexpired term.

Sec. 3. All laws and clauses of laws in conflict with this act are repealed.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of June, 1975.

H. B. 455 **CHAPTER 473**

AN ACT TO REVISE AND REORGANIZE THE CHARTER OF THE TOWN OF CHAPEL HILL.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Chapel Hill is hereby revised and reorganized to read as follows:

"Chapter I. Organization and Powers.

"Sec. 1.1. *Incorporation and corporate powers.* The Town of Chapel Hill shall continue to be a body politic and corporate by the name of 'Town of Chapel Hill'. Under that name, the Town shall continue to be vested with all of the property and rights of property which now belong to the corporation; shall have perpetual succession; may sue and be sued; may contract and be contracted with; may acquire and hold such property, real and personal, as may be devised, bequeathed, sold or in any manner conveyed or dedicated to or otherwise acquired by it, and from time to time may hold or invest, sell, or dispose of the same; may have a common seal and alter and renew the same at will and shall have and may exercise in conformity with this Charter all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever.

"Sec. 1.2. *Exercise of power.* All powers, functions, rights, privileges and immunities of the Town, its officers, agencies, or employees, shall be carried into execution as provided by this Charter. If this Charter makes no provision, such powers, functions, rights, privileges and immunities shall be carried into

execution as provided by ordinance or resolution of the Board of Aldermen and as provided by the pertinent general laws of the State.

"Sec. 1.3. *Town limits.* The boundaries of the Town shall be those existing at the time of the adoption of this Charter, with such alterations as may be made from time to time in the manner provided by law.

"Sec. 1.4. *Incorporation of amendments.* (a) As soon as possible after the adjournment of each General Assembly, the town attorney shall present to the Board of Aldermen copies of all local laws relating to the property, affairs and government of the Town of Chapel Hill that were enacted by such General Assembly, whether or not in terms amending this Charter, which he recommends be incorporated into this Charter. Such recommendations may include suggestions for renumbering or rearranging the provisions of such laws, for providing titles and catch lines, and for such other changes in arrangement and form that do not change the law as may be thought necessary to implement the purposes of this section.

(b) After considering the recommendations of the town attorney, the Board of Aldermen may provide for the incorporation of such laws into this Charter.

(c) The purpose of this section is to enable the Town to maintain at all times a current and accurate town charter, organized in clear and orderly fashion, and embracing all local laws relating to the property, affairs and government of the Town.

"Chapter II. Election Procedures.

"Sec. 2.1. *Election and terms of aldermen and a mayor.* (a) The voters of the Town shall elect in nonpartisan elections voting at large eight aldermen and a mayor;

(b) The aldermen shall be elected for staggered terms of four years each, four aldermen to be elected at each biennial election. In addition, at the first biennial election following the ratification of this Charter, a fifth alderman shall be elected for a two-year term only in order to increase the number of aldermen from six to eight and at such election the candidate receiving the fifth highest number of votes for alderman is elected to the two-year term.

(c) The mayor shall be elected at alternate biennial elections for a term of four years subject to the provisions of Section 2.4 of this Charter. No person shall be eligible to be elected to mayor for more than two successive four-year terms.

"Sec. 2.2. *Absentee voting.* The provisions of Articles 20 and 21 of Chapter 163 of the General Statutes of North Carolina shall apply to all voting in each municipal election and referendum held within the Town, except that the Orange County Board of Elections may provide a later date for the first meeting under G.S. 163-230 and the first day for voting under G.S. 163-227.2(b).

"Sec. 2.3. *Qualifications of elected officials.* (a) To be eligible to be elected as mayor or alderman or to serve in any of said offices, a person shall be a qualified voter and resident of the Town.

(b) No member of the governing body may be appointed to any other paid position in the town government, however, when a vacancy exists or shall occur in the office of mayor, an alderman shall not be debarred from selection as mayor.

"Sec. 2.4. *Vacancies in elected offices.* If any elected town officer shall fail or refuse to be qualified, or if there is a vacancy in any elective town office after qualification, or if the holder of any such officer be unable to discharge the

duties of the office, the Board of Aldermen shall choose some person to fill the vacancy as provided by law. A vacancy occurring in the office of mayor which occurs during the first 20 months of a mayor's term shall be filled by Board appointment only until the next general muncipal election, at which time a mayor shall be elected to a term of four years.

"Chapter III. Mayor and Board of Aldermen.

"Sec. 3.1. *Composition of governing body.* The governing body of the Town of Chapel Hill shall consist of a mayor and an eight-member Board of Aldermen increased from six following the 1975 general municipal election. The Board of Aldermen shall constitute the legislative body of the Town.

"Sec. 3.2. *Business at organizational meeting.* The organizational meeting of the Board of Aldermen shall be the first regular meeting in December following the date of the general municipal election. The newly elected members may take the oath of office at the organizational meeting, or if unable to attend, at a subsequent meeting. At the organizational meeting the Board shall choose from its members a mayor pro tem who shall hold office for a term of two years, and shall appoint a town attorney, town clerk, and tax collector. The organization of the Board shall take place notwithstanding the absence of death or refusal to serve or nonelection of one or more members, provided that at least five of the persons entitled to be members are present and (if necessary) take oath.

"Sec. 3.3. *Regular, special, and emergency meetings.* (a) The Board of Aldermen shall fix suitable times for its regular meetings. The mayor, the mayor pro tem, or any two members of the Board may at any time call a special meeting by signing a written notice stating the time and place of the meeting, which notice shall be delivered to each member or left at the usual dwelling place of such member at least six hours before the meeting. Meetings of the Board may also be held at any time when all members of the Board are present and consent thereto or when those not present have signed written waiver of notice. Except as otherwise provided by law, any business may be transacted at a special meeting that might be transacted at a regular meeting.

(b) Except where otherwise specifically provided by this Charter, the Board of Aldermen shall have authority to determine the time and place of Board meetings, to make such provisions as it may deem wise relative to regular, special, adjourned and continued meetings, to adopt rules of procedure, and generally to regulate the time, place, manner and method of the exercise of its powers. No ordinance, resolution, rule or directive may be adopted, amended or repealed, however, except in a public meeting. All meetings of the Board shall be held at the municipal building, unless the Board otherwise provides. In the event the Board is authorized or required by law to hold a joint meeting with the governing body of another municipality or political subdivision of the State of North Carolina, it may at its election meet with the other governing body at a designated place within the area subject to the jurisdiction of either governing body.

(c) The mayor, mayor pro tem, or two members of the Board of Aldermen may call a meeting to deal with an emergency. The notice provisions of this section shall not apply to a meeting called to deal with such emergency.

"Sec. 3.4. *Quorum; votes.* (a) A majority of the members of the Board of Aldermen shall constitute a quorum to do business.

(b) No member shall be excused from voting except upon matters involving the consideration of the member's official conduct or financial interest. In all

other cases a failure to vote by a member who is present or who, having been present has withdrawn from the meeting without being excused, shall be deemed an affirmative vote and shall be so recorded. A member who has withdrawn from a meeting without being excused shall be counted as present for purposes of determining whether or not a quorum is present.

"Sec. 3.5. *General powers of Board of Aldermen.* (a) The government of the Town and the general management of the Town shall be vested in the Board of Aldermen, except that the town manager shall have the powers hereinafter specified.

(b) In addition to other powers conferred upon it, by law, the Board of Aldermen may adopt and provide for the execution of such ordinances, rules and regulations, not inconsistent with this Charter, as may be necessary or appropriate to protect health, life or property, or to preserve or promote the comfort, convenience, security, good order, better government or general welfare of the Town or its inhabitants; may enforce the same by imposing penalties on such as violate them; and may compel the performance of the duties imposed upon others, by suitable penalties.

"Sec. 3.6. *Powers and duties of mayor.* (a) The powers and duties of the mayor shall be those conferred by this Charter or by general law, together with such others as may be conferred by the Board of Aldermen pursuant to law.

(b) The mayor shall preside at all meetings of the Board of Aldermen, but shall have the right to vote only in the case of a tie where one half of the members of the Board of Aldermen have voted in the affirmative and one half in the negative. The mayor shall be recognized as the official head of the Town by the courts for the purpose of serving civil processes, and by the public for all ceremonial purposes, and shall have the power to administer oaths. The mayor is the principal representative of the Board of Aldermen in relationships with the federal, State, and other local governments.

"Sec. 3.7. *Mayor pro tem.* During the disability of the mayor or while absent from the Town, the functions of the office shall devolve upon the mayor pro tem. The mayor pro tem shall preside at all meetings of the Board of Aldermen in the absence of the mayor. An alderman serving as mayor pro tem shall be entitled to vote on all matters, and shall be considered an alderman for all purposes (including the determination of whether a quorum is present).

"Sec. 3.8. *Applicable general laws.* Except as otherwise herein provided, the adoption, amendment, repeal, pleading and proving of ordinances shall be governed by provisions of general laws applying to cities.

"Sec. 3.9. *Adoption of ordinances and resolutions.* The affirmative vote of at least one half of the members of the Board of Aldermen shall be necessary to adopt any ordinance or resolution.

"Sec. 3.10. *Code or compilation of ordinances; proving of ordinances.* (a) The Board of Aldermen may adopt and provide for the issuance and distribution of a codification or compilation of the town ordinances. Any such code or compilation may consist of two separate parts, the 'General Ordinances' and the 'Technical Ordinances'. The technical ordinances may be published in sections and may include ordinances regarding the construction of buildings, the installation of plumbing or electric wiring or gas or oil appliances or equipment, and use of the public sewerage system, the zoning ordinance, the privilege license tax ordinance, and other technical ordinances designated as such by the Board. The Board may provide for the omission from the code or compilation of

designated classes of ordinances which, in its judgment, need not be included because of their limited interest or transitory nature.

(b) Any of the following shall be admitted in evidence in all courts and shall have the same force and effect as would an original ordinance:

(1) An official code or compilation of ordinances which:

(i) sets forth the ordinances in question;

(ii) is reproduced by the process of printing, mimeographing, photoduplication, or similar process;

(iii) is issued as a securely bound book or books with or without periodic, separately bound supplements; and

(iv) is certified by the town clerk, both as to the original volume or volumes and the supplements, as having been adopted by the governing board.

(2) An official code or compilation of ordinances which meets the requirements of items (i) and (ii) or paragraph (1), above, but which is issued as a loose-leaf book or books and is certified by the clerk as having been prepared and maintained pursuant to action by the governing board.

(3) A photographed, typed or other copy of an ordinance, as set out in the minute books of the Board of Aldermen or as set out in an official code or compilation of ordinances, certified by the clerk as a true copy.

"Sec. 3.11. *Codification of certain zoning, traffic and related ordinances by appropriate entries upon official map books.* (a) The Board of Aldermen may provide that any one or more classes of ordinances concerning the matters enumerated in subsections (b) and (c) of this section shall be codified by appropriate entries upon official map books to be retained permanently in the office of the town clerk. Such entries shall be made by or under the direction of some official designated by the Board. In conjunction with the introduction of every proposed ordinance concerning any of these matters a map of the affected area shall be presented to the Board, but failure to present such a map shall not affect the validity of the ordinance.

(b) The ordinances referred to in subsection (a) include all ordinances establishing or amending boundaries of any zoning district under zoning regulations.

(c) The ordinances referred to in subsection (a) also include all ordinances:

(i) Designating the location of official traffic-control devices;

(ii) Designating areas or zones where restrictions, prohibitions or other controls are applied with respect to parking, loading, bus stops, and taxicab stands;

(iii) Establishing speed limits;

(iv) Designating the location of through streets, stop intersections, yield right-of-way intersections, waiting lanes, one-way streets and truck traffic routes; and

(v) Establishing restricitons, prohibitions or other controls upon vehicle turns at designated locations.

(d) Photographic copies of any part of such official map, books, certified by the clerk, shall be admitted in evidence in all courts and shali have the same effect as would the original map book.

"Chapter IV. Administrative Offices Powers and Procedures.

"Article 1. General Administration.

"Sec. 4.1. *Offices, positions, departments and other agencies continued by Charter or created by Board of Aldermen.* (a) The office of town manager is continued.

(b) The Board of Aldermen may create, change, abolish, and consolidate offices, positions, departments, boards, commissions, and agencies other than those established or continued by this Charter or general law. The Board, by ordinance, may assign additional functions or duties to offices, positions, departments and agencies established or continued by this Charter (and may revise their titles accordingly), but may not discontinue or assign elsewhere any functions or duties assigned by this Charter to a particular office, position, department or agency. In exercising the powers granted by this subsection, the Board in its discretion may proceed without regard to the provisions or limitations of existing laws.

"Sec. 4.2. *Town manager: Appointment, qualifications, term, compensation and oath.* The Board of Aldermen shall appoint a town manager who shall be the administrative head of the town government, and shall be responsible for the administration of all town departments; and shall be appointed with regard to merit only and need not be a resident of the Town when appointed. The town manager shall hold office during the pleasure of the Board of Aldermen, and shall receive such compensation as it may fix.

"Sec. 4.3. *Town manager: Powers and duties.* The town manager shall (1) be the administrative head of the town government, and as such, shall be responsible for the administration of all town offices, positions and departments, created by or under this Charter; (2) see that within the jurisdiction of the Town the laws of the State and the ordinances, resolutions and regulations of the Board of Aldermen are faithfully executed; (3) attend all meetings of the Board and recommend for adoption such measures as shall be deemed expedient; (4) make reports to the Board from time to time upon the affairs of the Town, and keep the Board fully advised of the Town's financial condition and its future financial needs; and (5) under the control of the Board of Aldermen, supervise the work of all department heads, officers and employees of the Town, unless otherwise provided in this Charter.

"Sec. 4.4 through 4.6. Reserved.

"Article 2. Personnel.

"Sec. 4.7. *Appointment and removal of employees.* The town manager, except as otherwise provided in this Charter, shall appoint and may suspend and remove all town employees and heads of town departments and offices. The manager shall report to the Board of Aldermen every such appointment, suspension and removal of a department head at the next Board meeting following the appointment, suspension or removal.

"Sec. 4.8. *Appointment and removal of members of boards and commissions.* Except as otherwise provided by this Charter and notwithstanding any other provision of law, the Board of Aldermen shall appoint and may suspend and remove:

(1) All members of boards and commissions which are created pursuant to this Charter, unless the Board of Aldermen provides otherwise.

(2) All members of boards and commissions who are subject to appointment by the Board of Aldermen at the time of adoption of this Charter, unless the Board of Aldermen provides otherwise, and

(3) All members of any town board or commission created pursuant to any law enacted after the adoption of this Charter, unless said law provides otherwise.

"Sec. 4.9. *Official bonds.* The officers and employees of the Town of Chapel Hill, both elective and appointive, shall execute official bonds in amounts and upon terms and conditions the Board of Aldermen may require.

"Sec. 4.10 through 4.11. Reserved.

"Article 3. Contracting, Purchasing, and Property Management Procedures.

"Sec. 4.12. *Presumed grant to Town of certain lands.* In the absence of any contracts with the Town in relation to the lands used or occupied by it for the purpose of streets, sidewalks, alleys or other public works of said Town signed by the owner or owners thereof, or his agent, it shall be presumed that the said land has been granted to the Town by the owner or owners thereof, and the Town shall have good right and title thereto, and shall have, hold and enjoy same. Unless the owner or owners of said land, or those claiming under them shall make claim or demand, in writing addressed to the Board of Aldermen, for compensation within two years next after said land was taken, they shall be forever barred from recovering said land or having any compensation therefor. Nothing herein contained shall affect the right of persons under disability to make a claim until two years after the removal of their disability.

"Sec. 4.13. *Conveyances with covenants of warranty.* (a) The Board of Aldermen is hereby authorized to execute and deliver conveyances to any property, whether acquired by tax or assessment foreclosure or otherwise, with full covenant of warranty whenever in its discretion it is to the best interest of the Town to convey by warranty deed.

(b) Members of the Board of Aldermen are hereby relieved of any personal or individual liability by reason of the execution of any such conveyances with covenants of warranty.

"Sec. 4.14. *Quitclaims of Town property.* The Town may quitclaim any rights it may have in property not needed for public purposes upon report by the town manager and adoption of a resolution by the Board of Aldermen, both finding that the property is not needed for public purposes and that the interest of the Town has no readily ascertainable monetary value.

"Sec. 4.15. *Conveyance to abutting owners of small parcels of land cut off from town-owned tracts by street improvements.* Whenever in opening, extending or widening any street, avenue, alley or public place of the Town a small parcel or tract of land is cut off or separated by such work from a larger tract or boundary of land owned by the Town, the Board of Aldermen may authorize the town manager to execute and deliver in the name of the Town a deed conveying said cut-off or separated parcel or tract of land to an abutting or adjoining property owner, or owners in exchange for rights-of-way for said street, avenue, alley or public place or in settlement of any alleged damages sustained by said abutting or adjoining property owner. All deeds and conveyances heretofore or hereafter so executed and delivered shall convey all title and interest the Town has in such property notwithstanding no public sale after advertisement was, or is hereafter made.

"Sec. 4.16. *Disposal of surplus personal property.* In addition to the general powers conferred by law, the Board of Aldermen shall have the power and authority to sell, or to direct any of its officers or employees to sell, at private

sale, without bids or advertisements, any personal property owned by the Town having a market value of one hundred fifty dollars ($150.00) or less and which has been declared by the Board of Aldermen to be surplus property.

"Chapter V. Regulatory and Planning Functions.

"Article 1. General Regulations.

"Sec. 5.1. *Bird sanctuary.* (a) The territory within the corporate limits of the Town of Chapel Hill is hereby declared to be a bird sanctuary.

(b) It shall be unlawful for any person to kill, trap, or otherwise take any bird within the corporate limits of the Town of Chapel Hill except English sparrows, crows, starlings, pigeons, and domesticated fowls. Any person violating the provisions of this section shall be guilty of misdemeanor and, upon conviction, shall be fined not more than fifty dollars ($50.00) or imprisoned not more than 30 days.

"Sec. 5.2. *Use and sale of weapons and explosives.* The Board of Aldermen may prohibit or regulate the firing of guns, pistols, crackers, gunpowder, or other explosive, combustible or dangerous materials in the streets, public grounds or elsewhere within the Town, and govern the sale thereof.

"Sec. 5.3. *Location of traffic-control devices.* (a) The Board of Aldermen may authorize an official to designate the location of any or all official traffic-control devices, upon a determination by the officer in each case:

(1) If such a device is to be installed at a particular location, that its installation is necessary in order to control traffic congestion in the interest of public safety;

(2) If such a device is to be moved or removed from a particular location, that the device is no longer required at such location for the control of traffic congestion in the interest of public safety.

An 'official traffic-control device', as used in this section, is a sign, signal, marking, or device, including a parking meter, which is intended to regulate vehicular or pedestrian traffic.

(b) Whenever an official traffic-control device is installed, moved or removed pursuant to the preceding subsection, such action shall be reported in writing at the next regular meeting of the Board of Aldermen. Unless such action is reversed by the Board, a notation thereof shall be made in the minutes of the Board, or made by or under the direction of the town manager on a map or record book or any combination thereof maintained for that purpose. Any such map or record book shall be retained permanently in the office of the town clerk and shall be designated, as the case may be, as 'Map (on Record Book) of Location of Official Traffic-Control Devices'. Typed, photographic or other copies of any part of such map or record book or minute entry, certified by the town clerk, shall be admitted in evidence in all courts and shall have the same effect as would the original map or record book or minute book.

(c) For purposes of enforcement, the installation or moving or removing of a traffic-control device pursuant to subsection (a) shall take effect immediately when such a device is installed, moved or removed. The location of a traffic-control device may be proved by the testimony of the official who designated its location in any case where an offender is brought to trial before a notation concerning the traffic-control device in question has been made pursuant to subsection (b).

(d) The installation or moving or removing of a traffic-control device pursuant to the provisions of this section shall have the force and effect of an

ordinance and failure to obey any such device shall be punishable as a violation of an ordinance.

"Sec. 5.4. *Obstruction of alleys.* If, in the opinion of the Board of Aldermen, a fire hazard is created by the obstruction of private alleys, the Board may adopt regulations governing the obstruction of private alleys, either by reason of the parking of motor vehicles or otherwise.

"Sec. 5.5 through 5.7. Reserved.

"Article 2. Planning, Zoning, and Related Matters.

"Sec. 5.8. *Extraterritorial powers.* For the purpose of promoting the orderly growth, expansion, and development of the Town of Chapel Hill and the surrounding territory hereinafter defined, and for the purpose of promoting the health, safety, morals, and general welfare of the citizens of the Town and of the territory and community beyond and surrounding the territorial limits of said Town, as hereinafter defined, the Board of Aldermen is hereby authorized and empowered to exercise any planning, zoning, building regulation, and subdivision-control powers conferred upon the Town and vested in the Board by this Charter or any other statute applicable to the Town of Chapel Hill and may exercise the powers conferred upon cities by G.S. Chapter 160A, Act 19, not only within the corporate limits of the Town of Chapel Hill, but also within the territory and community beyond and surrounding such corporate limits as hereinafter defined in Section 5.9. Such extraterritorial powers may be exercised to the same extent and according to the same procedures as are applicable to the exercise of those powers within the corporate limits of the Town of Chapel Hill. Such powers shall specifically include, but shall not be limited to, the power to adopt such ordinance and regulations as may be considered necessary or expedient by said Board of Aldermen to regulate, control and restrict (a) the height, number of stories and size of buildings and other structures, (b) the percentage of a lot that may be occupied, (c) the size of yards, courts, and other open spaces, (d) the density of population, (e) the location and use of buildings, structures, and land for trade, industry, residence, or other purposes, and (f) the construction of buildings and of electrical and plumbing systems contained therein.

"Sec. 5.9. *Extraterritorial boundaries.* The boundaries of the territory within which the governing board may exercise the aforesaid powers shall be as follows:

Beginning at the point at which Morgan Creek intersects the boundary between Orange County and Durham County, and running thence along a straight line generally to the point at which U. S. Highway 15-501 intersects the boundary between Orange County and Chatham County; running thence generally northeastward along a line 250 feet east of and parallel to the center line of Smith Level Road to town limits of Carrboro; running thence generally east, north with the town limits of Carrboro to the center line of the Southern Railway right-of-way; running thence with the center line of the Southern Railway right-of-way to its intersection with an imaginary line drawn between the intersection of N. C. Highway 54 and Morgan Creek on the west, and the intersection of New Hope Creek with the boundary between Orange County and Durham County on the east; thence proceeding eastward with said line from its intersection with the Southern Railway right-of-way to its western intersection, Lot 17, Tax Map 41B, and proceeding thence in a northerly direction along the western property line of Lot 17, Tax Map 41B approximately 120 feet to the northwestern corner of said lot; thence in a northerly direction along the

western property line of Lot 5A, Tax Map 25, approximately 740 feet to the northeastern corner of Lot 17C, Tax Map 25; thence in a westerly direction along the northern property line of Lot 17C, Tax Map 25 approximately 190 feet to the southwestern corner of Lot 5, Tax Map 25; thence in a northerly direction along the western property line of Lot 5, Tax Map 25, approximately 800 feet to the southwestern corner of Lot 4, Tax Map 25; thence in an easterly direction along the southern property line of Lot 4, Tax Map 25, approximately 510 feet to the southeastern corner of Lot 4, Tax Map 25; thence in a northerly direction along the western property line of Lot 5, Tax Map 25, approximately 1,325 feet to the northwestern property corner of said lot, said corner lying on the southwestern right-of-way line of S.R. 1733 (Weaver Dairy Road); thence in a southeasterly direction along the southwestern right-of-way of S. R. 1733 (Weaver Dairy Road) approximately 2,060 feet to the northeastern corner of Lot 15, Tax Map 25; thence in a southerly direction, along the eastern property line of Lot 15, Tax Map 25, approximately 150 feet to the southeastern corner of said lot; thence in a westerly direction, along the southern property line of Lot 15, Tax Map 25, approximately 150 feet to the northeastern corner of Lot 16, Tax Map 25; thence in a southerly direction, along the eastern property line of Lot 16, Tax Map 25, approximately 1,020 feet to its intersection with the N. C. 54, Morgan Creek-New Hope Creek and Orange-Durham boundary line; proceeding thence eastward to the intersection of New Hope Creek with the boundary between Orange County and Durham County; thence generally southward along the boundary between Orange County and Durham County to the starting point.

At such time as may be agreed by the Board of Commissioners of the County of Orange and the Board of Aldermen of the Town of Chapel Hill, the boundaries of the territory within which the Board of Aldermen may exercise the aforesaid powers, shall be extended and include the territory described as follows:

Beginning at the southern corner of Orange County where its line with Durham County intersects its line with Chatham County, thence westerly along the boundary line between Orange County and Chatham County, about 4 miles to a point at which U. S. Highway 15 and 501 intersect this line; thence in a generally northeasterly direction along a straight line to the point where Morgan Creek intersects the boundary between Orange County and Durham County; thence southwardly along the boundary line between Orange County and Durham County to the point of Beginning.

"Sec. 5.10. *Planning Board.* If the Board of Aldermen desires to exercise the powers granted by this Article, it shall by ordinance create a planning board whose members shall be appointed as follows: Five members shall be appointed by the Board of Aldermen and shall be citizens and residents of said Town; five members shall be appointed by the Orange County Board of Commissioners and shall be citizens and residents of the territory beyond and surrounding the territorial limits of the Town of Chapel Hill as defined by this Article. This planning board shall be empowered to exercise the powers, duties, and functions of a municipal planning board and of a municipal zoning commission, both as defined by law. Members shall be appointed for five-year terms and until their respective successors have been appointed and qualified; provided that the initial appointees may be appointed to shorter terms of varying duration, to the end that the terms of no more than two members shall expire in any one year.

"Sec. 5.11. *Planning Board if jurisdiction enlarged.* If the Board of Aldermen desires to exercise the powers granted by this Article or by general law, and if the Board of Aldermen exercises extraterritorial jurisdiction within both Orange and Durham Counties, it shall by ordinance create a planning board whose members shall not be appointed as provided in Section 5.10, but shall be appointed as follows:

Six members shall be appointed by the Board of Aldermen and shall be citizens and residents of the Town. Four members shall be appointed by the Orange County Board of Commissioners, and shall be citizens and residents of the territory beyond and surrounding the territorial limits of the Town of Chapel Hill in Orange County as defined in this Article and established under Article 19 of Chapter 160A of the General Statutes.

Two members shall be appointed by the Durham County Board of Commissioners, and shall be citizens and residents of the territory beyond and surrounding the territorial limits of the Town of Chapel Hill lying within the County of Durham as established pursuant to Article 19 of Chapter 160A of the General Statutes.

This Planning Board shall be empowered to exercise the powers, duties, and functions of a municipal planning board as defined in Article 19 of Chapter 160A of the General Statutes. Members shall be appointed for five-year terms, or until their respective successors have been appointed and qualified, provided that the initial appointees may be appointed to shorter terms of varying duration to the end that the terms of no more than three members shall expire in any one year. The jurisdiction of this Board shall include all of the area defined in Section 5.9 hereof including both the territory within the corporate limits of the Town of Chapel Hill and the outside territory over which the Chapel Hill Board of Aldermen is granted jurisdiction by this Article, and other outside territory lying within Durham or Orange Counties over which the Chapel Hill Board of Aldermen is granted jurisdiction by Chapter 767 of the Session Laws of 1967, and Chapter 1088, Session Laws of 1969, and Article 19 of Chapter 160A of the General Statutes.

"Sec. 5.12. *Zoning Board of Adjustment.* If the Board of Aldermen should adopt a zoning ordinance for the territory beyond the corporate limits of Chapel Hill, as authorized by this Article, it shall create a zoning board of adjustment whose members shall be appointed as follows: Five members shall be appointed by the Board of Aldermen, and shall be citizens and residents of said town; five members shall be appointed by the Orange County Board of Commissioners and shall be citizens and residents of the territory beyond and surrounding the territorial limits of the Town of Chapel Hill, as defined by this Article. Such board of adjustment shall have and exercise all of the powers, duties, and functions enumerated in Section 160A-388 of the General Statutes. Members shall be appointed for terms of three years and until their respective successors have been appointed and qualified; provided that the initial appointees may be appointed to shorter terms of varying duration, to the end that the terms of no more than four members shall expire in any one year. There shall be a quorum of five members for the purpose of hearing cases. The concurring vote of four-fifths of the members present for the hearing of any case shall be necessary in order (a) to reverse any order, requirement, decision or determination of any administrative official charged with enforcement of the ordinance, or (b) to

decide in favor of the applicant any matter upon which it is required to pass under any such ordinance, or (c) to effect any variation in such ordinance.

"Sec. 5.13. *Zoning Board of Adjustment, if jurisdiction enlarged.* If the Board of Aldermen should adopt a zoning ordinance for the territory beyond the corporate limits of Chapel Hill as authorized by this Article or by general law, and if the Board of Aldermen exercises extraterritorial jurisdiction within both Orange and Durham Counties, it shall create a zoning board of adjustment whose members shall not be appointed as provided in Section 5.12, but shall be appointed as follows:

Six members shall be appointed by the Board of Aldermen and shall be citizens and residents of the town. Four members shall be appointed by the Orange County Board of Commissioners, and shall be citizens and residents of the territory beyond and surrounding the territorial limits of the Town of Chapel Hill in Orange County as defined in this Article and established under Article 19 of Chapter 160A of the General Statutes; and

Two members shall be appointed by the Durham County Board of Commissioners, and shall be citizens and residents of the territory beyond and surrounding the territorial limits of the Town of Chapel Hill lying within the County of Durham as established pursuant to Article 19 of Chapter 160A of the General Statutes.

Said Board of Adjustment shall have and exercise all of the powers, duties, and functions enumerated in Section 160A-388 of General Statutes. Members shall be appointed for terms of three years and until their respective successors have been appointed and qualified; provided that the initial appointees may be appointed to shorter terms of varying duration to the end that the terms of no more than four members shall expire in any one year. There shall be a quorum of six members for the purpose of hearing cases. The concurring vote of four-fifths of the members present for the hearing of any case shall be necessary in order (a) to reverse any order, requirement, decision or determination of any administrative official charged with enforcement of the ordinance, or (b) to decide in favor of the applicant in any matter upon which it is required to pass under any such ordinance, or (c) to affect any variation in such ordinance.

"Sec. 5.14. *Building inspector.* The Board of Aldermen may appoint a building inspector to enforce in its zoning jurisdiction surrounding the corporate limits of the Town any regulations adopted pursuant to this Article. Such inspector may be the same as the building inspector serving within such Town limits.

"Sec. 5.15. *Public hearing.* The Board of Aldermen shall enact no ordinance or ordinances under the provisions of this Article without first holding a public hearing as provided in Article 19 of Chapter 160A of the General Statutes. No further public hearing with respect to the adoption of such ordinance shall be necessary.

"Sec. 5.16. *Powers supplementary.* The powers granted to the Board of Aldermen by this Article are intended to be supplementary to any powers which have heretofore been granted, or which may hereafter be granted to it under other provisions of law. The exercise of the powers granted by this Article shall be within the discretion of the Board of Aldermen. Unless and until the Board exercises these powers, this Article shall have no effect upon any existing or future ordinances of the Town of Chapel Hill. The adoption of any ordinance

under the authority of this Article shall have no effect upon any litigation which is pending at the time of such adoption.

"Sec. 5.17. *Severability.* If any section, subdivision, clause or provision of this Article shall be adjudged invalid, such adjudication shall apply only to such section, subdivision, clause or provision to be adjudged, and the remainder of the Article shall be deemed valid and effective.

"Sec. 5.18 through 5.20. Reserved.

"Article 3. Subdivision Controls.

"Sec. 5.21. *Board of Aldermen as platting authority.* The Board of Aldermen is hereby authorized to enact an ordinance regulating the platting and recording of any subdivision of land as defined by this Article lying within the said municipality or within the area defined in Article 2 of this Chapter.

"Sec. 5.22. *Plat approval.* Any subdivision ordinance adopted pursuant to this Article shall contain provisions setting forth the procedures to be followed in granting or denying approval of a subdivision plat prior to its registration. The ordinance may provide that final approval of each individual subdivision plat is to be given by (1) the Board of Aldermen, (2) the Board of Aldermen on recommendation of the Planning Board, or (3) the Planning Board, or a designated planning agency.

The provisions of Section 373 of Chapter 160A of the General Statutes of North Carolina, as amended, shall apply to the recording of said ordinances and plats submitted pursuant thereto.

"Chapter VI. Town Services and Facilities.

"Article 1. Police and Fire Administration.

"Sec. 6.1. *Powers and duties of chief of police and policemen.* The chief of police and each member of the police force shall have the powers of peace officers vested in the sheriffs and constables for the following purposes: For the purpose of enforcing town ordinances and regulations, or preserving the peace of the town, or suppressing disturbances and apprehending offenders, and for serving civil process. Such powers may be exercised within the corporate limits of the Town, within five miles thereof within Orange County, within the limits of the watershed of the Town water supply, and upon Town real property wherever located.

"Sec. 6.2. *Powers of firemen on duty during fires.* The fire chief and his assistants, while on duty during fires, shall have the powers conferred upon police officers by Section 6.1 of this Charter, and are authorized to make arrests without warrants for interference with or obstructions to their operations.

"Sec. 6.3. through 6.9. Reserved.

"Article 2. Streets, Sidewalks and Related Improvements.

"Sec. 6.10. *Street maintenance; sidewalk paving and maintenance.* The Board of Aldermen may require the owner of or lessee of the land abutting upon any sidewalks to repair same at such owner's expense, and to require that the same be kept in good passable condition; or it may require the owners of property to pave at their own expense, the sidewalks immediately fronting said lot, or upon the failure of the owner after due notice to so pave such sidewalk, such work may be done by the Town, and the cost thereof assessed against the lot immediately abutting said sidewalk, and such assessment shall be a lien against such abutting lot, collectible as and when the taxes for the next fiscal year are due.

"Sec. 6.11. *Sidewalk improvements; when petition unnecessary for assessment cost.* Notwithstanding the other provisions of this Charter or of any other laws, whenever the Board of Aldermen shall find by a personal inspection by each member of the Board that the public interest requires that a paved sidewalk is necessary by reason of heavy pedestrian traffic, or pedestrian safety, it may without petition order the making of such sidewalk improvement on one or both sides of such street, and assess the cost thereof against the abutting property in the same manner as such assessment would be made upon petition. Whenever such improvement is made by authority of this section on only one side of a street, assessment may, if in the opinion of the Board of Aldermen the abutting property on both sides of said street will be benefited by said improvement, be made against said abutting properties on each side of said street in the same manner as such assessment would be made if the improvement had been made on both sides. Before any order is made requiring such sidewalk improvement under the provisions of this section, the Board of Aldermen of the Town of Chapel Hill shall give at least 10 days' written notice of such proposed action to each owner of property to be assessed at a public hearing to be held by the Board of Aldermen for the purpose of considering such order at which all persons to be affected by said order shall be given the opportunity to be heard.

In ordering sidewalk improvements without a petition and in assessing the cost thereof under authority of this section, the Board of Aldermen shall comply with the procedures provided by Article 10, Chapter 160A of the General Statutes, except those provisions relating to the petition of property owners and the sufficiency thereof. The effect of the acts of levying and confirming assessments under authority of this section shall for all purposes be the same as if the assessments were levied and confirmed under authority of and pursuant to Article 10, Chapter 160A of the General Statutes.

"Sec. 6.12 through 6.15. Reserved.

"Article 3. Water Supply, Sewage and Waste Disposal, and other Utilities.

"Sec. 6.16. *Sewer rentals and assessments.* The Board of Aldermen shall have the authority to charge and collect a sewer rental or fee on all houses connected with the municipal sewer system, and to levy special assessments as is provided by general law, which rentals and assessments are hereby declared a lien against the property served and the officer charged with the collection of the same shall have the power to collect by distress and sale as provided by law for the collection of ad valorem taxes.

"Sec. 6.17. *Extension of sewer system beyond Town limits.* (a) The Board of Aldermen is authorized and empowered to extend the sewer system of the Town of Chapel Hill outside and beyond the Town limits of the Town so that the residents of the territory surrounding the Town may be provided with sewer services. To that end it is authorized and empowered to construct sewer systems outside the limits of the Town, and to acquire by purchase or gift any sewer system now in existence or hereafter to be constructed within the area hereinbefore designated.

(b) The Board of Aldermen shall have the authority to charge and collect a sewer rental or fee on all houses or dwellings connected with such extension or extensions of the sewer system of the Town beyond the limits of the Town, and to levy special assessments as is provided by the general law, which rentals and

assessments shall be deemed, and are hereby declared a lien against the property served, and the officer charged with the collection of the same shall have the power to collect by distress and sale as provided by law for the collection of ad valorem taxes.

"Sec. 6.18. *Assessment policy of Board of Aldermen.* Without regard to the limitations stated in Article 10, Chapter 160A of the General Statutes or in any other provision of law, the Board of Aldermen acting for the Town may assume such proportion of the total cost of local improvements (including street improvements, sidewalk improvements, curb and gutter, and water and sewer improvements, or any one or more of them) as the Board may from time to time deem appropriate.

"Sec. 6.19 through 6.20. Reserved.

"Article 4. Public Transportation Systems.

"Sec. 6.21. *Ownership and operation of a public transportation system.* In addition to other powers conferred upon it by law and this Charter, the Board of Aldermen is authorized and empowered to acquire, establish, operate, maintain or franchise a public transportation system for the Town of Chapel Hill and enter into contracts and agreements with respect thereto with the University of North Carolina at Chapel Hill, and the Chapel Hill-Carrboro City Board of Education to operate such system as it deems advisable both within and without the Town limits, and to provide for the financing thereof through the expenditure of public funds, the issuance of bonds, notes and other evidences of indebtedness as provided by law.

"Sec. 6.22 through 6.25. Reserved.

"Article 5. Off-Street Parking Facilities.

"Sec. 6.26. *Off-street parking fund.* The Board of Aldermen is hereby authorized in its discretion to establish a fund into which payments for the purpose of providing off-street parking facilities from individual firms, persons, corporations, or property owners, shall be deposited, and from which appropriations shall be made exclusively for the purpose of organizing, establishing, or enlarging off-street parking facilities within the Town."

Sec. 2. It is the purpose of this act to revise and reorganize the Charter of the Town of Chapel Hill, and to omit certain provisions contained in the current Charter (Chapter 87 of the Session Laws of 1961, as amended) in order that the provisions of general law may control. It is not the intention to repeal, but rather to reenact with or without amendments as the case may be, and continue in force without interruption the provisions now in force of said Charter, as amended, except those omitted, and all local acts not specifically referred to herein, so that all rights and liabilities that have accrued are preserved and may be in force.

Sec. 3. This act shall not be deemed to repeal, modify nor in any manner to affect any special act not specifically referred to herein.

Sec. 4. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(a) The repeal herein of any act repealing such law, or

(b) Any provision of this act that disclaims an intention to repeal or affect enumerated laws.

Sec. 5. (a) Notwithstanding any other provision of this act, all existing Chapel Hill ordinances and resolutions and existing rules or regulations of Chapel Hill Town departments or agencies in effect at the time of the

ratification of this act shall be and continue in full force and effect until repealed, amended or modified.

(b) No action or proceeding of any nature (whether civil or criminal, judicial or administrative or otherwise) pending at the effective date of this act by or against or before the Town of Chapel Hill or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

Sec. 6. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 7. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 4th day of June, 1975.

H. B. 525 CHAPTER 474

AN ACT TO AMEND CHAPTER 519 OF THE SESSION LAWS OF 1959 RELATING TO THE DISPOSITION OF THE NET PROFITS FROM THE ALCOHOLIC BEVERAGE CONTROL STORES IN THE TOWN OF SHALLOTTE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 519 of the Session Laws of 1959 is hereby amended by deleting therefrom the last paragraph of Section 6 thereof, including all subsections contained therein, and substituting in lieu thereof the following:

"Out of the net profits derived from the operation of said alcoholic beverage control stores, the Town of Shallotte Board of Alcoholic Control shall, on a quarterly basis, pay over to the following named governing bodies, departments, boards, and agencies amounts equal to the percentages of the net profits which shall be expended by said governing bodies, departments, boards, and agencies for these purposes and none other as follows:

(a) 5% to Union Primary School

(b) 5% to Shallotte Middle School

(c) 10% to West Brunswick High School

(d) 80% to the General Fund of the Town of Shallotte."

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of June, 1975.

H. B. 565

CHAPTER 475

AN ACT TO MAKE TECHNICAL AMENDMENTS IN THE LAW RELATING TO THE TAXATION AND REGULATION OF PROFESSIONAL BONDSMEN AND OTHERS IN DURHAM COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 899 of the 1949 Session Laws is hereby further amended by deleting therefrom Section 9 and substituting in lieu thereof a new Section 9 which shall read as follows: "At any time before there has been a breach of the undertaking in any type of bail or fine and cash bond the surety may surrender the defendant, or the defendant may surrender himself, to the official to whose custody the defendant was committed at the time bail was taken, or to the official into whose custody the defendant would have been given had he been committed. The defendant may be surrendered without the return of premium for the bond if he has been guilty of nonpayment of premium, changing address without notifying his bondsman, conceals himself, or leaves the jurisdiction of the Court without the permission of his bondsman, or of violating his contract with the bondsman in any way that does harm to the bondsman, or the surety, or violates his obligation to the Court."

Sec. 2. Section 1 of Chapter 787 of the Session Laws of 1951 is hereby amended by deleting therefrom at line 5 the word "Recorder's" and by deleting therefrom at line 9 the word "Recorder's" and by deleting therefrom at line 16 the word "Recorder's".

Sec. 3. Section 1 of Chapter 787 of the Session Laws of 1951 is further amended by deleting therefrom at lines 11 and 12 the words "twenty-five percent (25%)" and substituting in lieu thereof the words "sixteen and two-thirds percent (16 2/3%)", by deleting at line 15 the words "twenty-five percent (25%)" and substituting in lieu thereof the words "sixteen and two-thirds percent (16 2/3%)", by deleting at line 19 the words "twenty-five percent (25%)" and substituting in lieu thereof the words "sixteen and two-thirds percent (16 2/3%)", and by deleting at line 23 the words "twenty-five percent (25%)" and substituting in lieu thereof the words "sixteen and two-thirds percent (16 2/3%)".

Sec. 4. Section 1 of Chapter 787 of the Session Laws of 1951 is further amended by adding thereto the following words: "In addition to the deposits required herein above, every person, firm, or corporation licensed as a professional bondsman or surety, shall, before engaging in such business, deposit with the Clerk of Court of Durham County the sum of twenty-five thousand dollars ($25,000) cash. Provided, this section shall not apply to any person, firm, or corporation licensed as a professional bondsman or surety and engaging in such business prior to the ratification of this act."

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of June, 1975.

H. B. 699 **CHAPTER 476**

AN ACT TO ADD TO G.S. 46-25 A PROVISO THAT THE LIFE TENANT MAY CUT TIMBER ONLY ON A FINDING THAT SUCH CUTTING IS NECESSARY FOR GOOD HUSBANDRY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 46-25 is hereby amended by adding at the end thereof a new proviso to read as follows:

"; Provided further, that prior to a judgment allowing a life tenant to sell the timber there must be a finding that the cutting is in keeping with good husbandry and that no substantial injury will be done to the remainder interest."

Sec. 2. This act shall become effective on October 1, 1975, and shall apply only to property acquired by deed, inheritance or will after the effective date.

In the General Assembly read three times and ratified, this the 4th day of June, 1975.

H. B. 781 **CHAPTER 477**

AN ACT TO ALLOW THE SHERIFFS OF CHATHAM AND ORANGE COUNTIES A FEE OF TWO DOLLARS AND FIFTY CENTS ($2.50) FOR WEAPONS PERMITS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-404 as the same appears in the 1969 Replacement Volume 1B of the General Statutes is hereby amended so that the last sentence thereof shall read:

"The sheriff shall charge for his services upon issuing such license or permit a fee of two dollars and fifty cents ($2.50)."

Sec. 2. This act shall apply only to Chatham and Orange Counties.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of June, 1975.

H. B. 950 **CHAPTER 478**

AN ACT TO ALLOW THE SHERIFF OF CALDWELL COUNTY A FEE OF TWO DOLLARS AND FIFTY CENTS ($2.50) FOR WEAPONS PERMITS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-404 as the same appears in the 1969 Replacement Volume 1B of the General Statutes is hereby amended so that the last sentence thereof shall read:

"The sheriff shall charge for his services upon issuing such license or permit a fee of two dollars and fifty cents ($2.50)."

Sec. 2. This act shall apply only to Caldwell County.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of June, 1975.

H. B. 1063 **CHAPTER 479**

AN ACT TO EXTEND THE DEADLINE FOR PROVIDING SANITARY SEWER SERVICE TO CERTAIN ANNEXED AREAS IN THE TOWN OF GRIFTON.

Whereas, pursuant to the provisions of Part II, Article 4a, Chapter 160A of the General Statutes, and by ordinance effective on the 19th day of August, 1974, the Town of Grifton annexed certain outlying areas described in such annexation ordinance;

Whereas, subsequent to the annexation of August 19, 1974, the town was informed by the North Carolina Environmental Management Commission and the United States Environmental Protection Agency that additional sewer service to annexed property owners could be provided only on a regional basis by the Contentnea Metropolitan Sewage District in order to receive State and federal sewage treatment facilities funding;

Whereas, though the preliminary application for federal and State funding of the Contentnea Metropolitan Sewage District has been approved by the Environmental Management Commission and Environmental Protection Agency, it is questionable whether contracts will be let for construction by August 19, 1975, and the requirements of G.S. 160A-37 thereby complied with;

Whereas, the town is in need of more time, not to exceed an additional year, to provide sewer service to these annexed areas due to the unforeseeable delays in obtaining State and federal funding approval; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of G.S. 160A-37(h) relating to the proper time for bringing actions thereunder, any persons owning property in the territory annexed by the Town of Grifton by the ordinance effective on August 19, 1974, may apply for a writ of mandamus against the town under the provisions of G.S. 160A-37(h) not earlier than two years from and not later than 27 months from the effective date of the annexation.

Sec. 2. This act shall apply to the Town of Grifton only.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of June, 1975.

H. B. 1064 **CHAPTER 480**

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF GRIFTON.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Grifton is hereby revised and consolidated as follows:

"CHARTER OF THE TOWN OF GRIFTON.

"Chapter I.

"Incorporation and Corporate Powers.

"Section 1-1. *Incorporation and corporate powers.* The inhabitants of the Town of Grifton shall continue to be a body corporate and politic under the name of the 'Town of Grifton'. Under that name they shall have all the powers,

duties, rights, privileges, and immunities conferred and imposed on cities by the general law of North Carolina and by this Charter.

"Chapter II.

"Corporate Boundaries.

"Sec. 2-1. *Town boundaries.* Until modified in accordance with law, the boundaries of the Town of Grifton are as follows:

Beginning at a point in the centerline of the main line of the Seaboard Coastline Railroad on the southern side of Contentnea Creek in Lenoir County, said point being S 37-30 W along the centerline of the main line of the Seaboard Coastline Railroad 384 feet from the southern edge of the steel draw on said railroad bridge; thence from this beginning S 55-15 E 636 feet to a point; thence N 80-00 E 2545 feet to a point; thence along a line N 30 E 80 feet to the south bank of Contentnea Creek and continuing along the south bank 2060 feet in a South-southeasterly direction to a point on the southern line of the right of way of the transmission line to the Voice of America installation; thence N 23 E, crossing Creek Road at a point 635 feet northwest of the western end of the bridge over Mill Branch, and continuing in the direction of N 23 E 3000 feet, more or less, to a point in the center line of the Grifton-Vanceboro Highway, N. C. Hwy. 118, where a ditch crosses said highway; thence with the centerline of said ditch N37 E 880 feet to a point in the centerline of said ditch; thence N 31 W 495 feet to the southern right of way line of Wall Street, previously called "The Culture Road"; thence with the southern right of way of said road N 62E 675 feet to a point; thence continuing with the right of way of said road N 62-12 E 802 feet to a point; thence N 71 E 855 feet to a point; thence crossing said road and with the eastern property line of Meadow Green Subdivision, Section 3 as recorded in Map Book 20 at pages 178 and 178-A in the Pitt County Registry N 11-48 W 837.7 feet to a point in a ditch; thence with the said ditch S 79-26 W 30 feet; thence with the Eastern line of Meadowgreen Development property and the Western line of M. B. Hodges land N 14-11 W 818.6 feet to a point in the southern right of way line of N.C.S.R. 1907; thence with the right of way line of N.C.S.R. 1907 N 81-39 E 1672 feet to a point where the southern right of way line of N.C.S.R. 1907 and the Eastern property line of Brassie Drive (if extended) intersect; thence with the Eastern property line of said Brassie Drive N 8-36 W 359.1 feet to the corner of lots 36 and 35, Addition no. 5 of the Country Club Hills Subdivision; thence N 4-04 E 150 feet to the front corner of lots 34 and 35 in the aforesaid Subdivision; thence N 15-07 E 120 feet to the front corner of lots 33 and 34; thence N 25-47 E 110 feet to the westernmost corner of Lot 98; thence S 62-48 E 184.7 feet to the southernmost corner of Lot 98; thence with the Eastern line of Addition 2 and the Western line of Addition 3 N 27-12 E 1700.0 feet to the Westernmost corner of Lot 99, 5th Addition; thence S 62-48 E 228.1 feet to a point in the Eastern property line of East Fairlane Drive; thence with the Eastern property line of East Fairlane Drive N 27-12 E 160.0 feet to the Southwest corner of Lot 14; thence N 82-12 E 182.0 feet to the rear corner of Lots 14 and 15 at Poplar Branch; thence up Poplar Branch N 12-12 E 217.7 feet to the Easternmost corner of Country Club Hills Subdivision; thence with the Northern line of Country Club Hills Subdivision N 85-48 W 1720 feet to the Northwesternmost corner of the aforesaid Subdivision; thence with the Western line of Addition 1 and the Eastern line of the Grifton Golf and Country Club, Inc. property the following courses- S 20-12 W 528.3 feet; S 24-12 W 759.0 feet; S 35-42 W 528.0 feet; S 47-52 W 29.0

feet; S 1-48 E 55.0 feet; S 41-12 W 50.0 feet; S 7-42 W 81.0 feet; S 30-33 E 27.0 feet to the Northeastern corner of Lot 12, Addition 4; thence S 72-17 W 666.9 feet to the rear corner of Lots 17 and 26; thence N 17-43 W 131.5 feet to a point in a ditch, the rear corner of lots 18 and 26; thence with the ditch and Mrs. Eleanor Gowers' line S 46-39 W 574.9 feet; thence S 43-39 W 265.0 feet to the rear corner of Lots 50 and 51; thence leaving said ditch S 57-03 W 1806.22 feet to a point; thence N 35-07 W 844 feet to a point in the centerline of the Seaboard Coastline Railroad; thence with the centerline of said railroad in a southwesterly direction 940 feet to a point in said centerline; thence N 47 W 1577.6 feet to a point in the eastern right of way line of the Grifton-Greenville Highway, N.C.S.R. 1939; thence with the right of way line of said N.C.S.R. 1939 N 21-36 E 1012 feet; thence N 14-19 E 590 feet to a point in the right of way of the aforesaid Highway; thence crossing said Highway and with the property lines of Forest Acres Subdivision as follows: (1) S 85-35 W 2705.5 feet to a point; (2) S 13-16 W 222.72 feet to a point; (3) S 36-26 W 221.84 feet to a point; (4) S 23-23 E 533.52 feet to a point; (5) N 86-35 E 211.1 feet to a point, a corner of the Harper property; thence with the Harper line S 7-25 E 634.0 feet to a point; thence S 10-38 E 389.25 feet to a point, a corner of the Koon property; thence with the Koon line S 3-25 E 150 feet to a point in the common line between the A. L. Patrick Estate and the McCotter Heirs property; thence with the common line between the Patrick Estate and the McCotter Heirs property S 86-35 W 668 feet to a point where said line is intersected by the southern line of a thirty foot wide road right of way that is 180 feet south of and parallel to the southern line of Queen Street; thence with the southern line of this thirty foot wide road S 43-15 E 1180 feet to the eastern line of the A. L. Patrick Estate; thence S 59-22 W 2660 feet to the northern bank of Contentnea Creek; thence across Contentnea Creek S 68 W 988 feet to a point in a ditch in Lenoir County; thence S 8 W 572 feet with the line of said ditch to a point that is 250 feet from the centerline of the Grifton-Hugo Highway, N.C.S.R. 1704; thence S 62-30 E 730 feet to a point in the centerline of the Grifton-Kinston Highway where a ditch meets said Highway; thence with the line of said ditch S 32-30 E 580 feet to a point in said ditch; thence S 53-00 E 1420 feet to a point in the centerline of the main line of the Seaboard Coastline Railroad; thence N 37-30 E 488 feet to the point of beginning.

"Chapter III.

"Governing Body.

"Sec. 3-1. *Structure of governing body.* The governing body of the Town of Grifton shall continue to be the board of commissioners, consisting of five members, and the mayor.

"Sec. 3-2. *Manner of election of governing body.* The qualified voters of the entire town shall elect the members of the board and the mayor.

"Sec. 3-3. *Term of office.* Members of the board and the mayor shall be elected to four-year terms. In 1975 and quadrennially thereafter, three members of the board shall be elected. In 1977 and quadrennially thereafter, two members of the board and the mayor shall be elected. Newly elected board members shall fill the seats of those board members whose terms are then expiring.

"Chapter IV.

"Elections.

"Sec. 4-1. *Conduct of town elections.* Town elections shall be on a nonpartisan basis and the results determined by plurality, as provided by G.S. 163-292.

"Chapter V.

"Administration.

"Sec. 5-1. *Town to operate under mayor-council plan.* The Town of Grifton shall operate under a mayor-council plan. The board of commissioners shall appoint and discharge all town employees, shall designate department heads, and shall prescribe by ordinance their duties and authority to suspend employees assigned to their department. The board may confer on the mayor and/or one or more of its members authority to make interim suspensions or assignments. Otherwise the administration of the town shall be performed as provided by law or the direction of the board of commissioners.

"Sec. 5-2. *Appointments to boards and commissions.* The mayor shall, with the advice and consent of the board of commissioners, make appointments to and removals from boards or commissions authorized by general law or created by the board of commissioners.

"Chapter VI.

"Police.

"Sec. 6-1. *Jurisdiction extended.* The jurisdiction of the police force of the town is hereby extended to include all territory outside and within one and one-half miles of the corporate limits, and all members of the police force shall have within such territory all rights, power, and authority invested in law-enforcement officers by statute or common law.

"Chapter VII.

"Street and Sidewalk Improvements.

"Sec. 7-1. *Improvements defined.* The term 'improvement' as used herein includes grading, regrading, surfacing, resurfacing, widening, paving, repaving, acquisition of rights-of-way, and construction and reconstruction of sidewalks, curbs, gutters, streets, and street-drainage facilities.

"Sec. 7-2. *When petition unnecessary.* The board of commissioners may order street improvements and assess the cost thereof, exclusive of the costs incurred at street intersections, against the abutting property without the necessity of a petition upon the finding by the board as a fact that:

(a) Such street or part thereof is unsafe for vehicular traffic and it is in the public interest to make such improvement, or

(b) It is in the public interest to connect two streets or portions of a street already improved, or

(c) It is in the public interest to widen a street, or part thereof, that is already improved. However, assessments for widening any street or portion of street without petition shall be limited to the cost of widening and otherwise improving such street in accordance with the street classification and improvement standards established by the town's thoroughfare or major street plan for the particular street or part thereof to be widened and improved.

"Sec. 7-3. *Sidewalks; assessment of costs.* In addition to any authority that is now or may hereafter be granted by general law to the town for making sidewalk improvements, the board of commissioners may make or order to be made sidewalk improvements or repairs without petition according to standards and specifications of the town and assess the total cost thereof against the abutting property.

"Sec. 7-4. *Assessment procedure.* In ordering street and sidewalk improvements without a petition and assessing the cost thereof under the authority of this Chapter, the board of commissioners shall comply with the procedure provided by G.S. Chapter 160A, Article 10, except those provisions relating to the petition of property owners and the sufficiency thereof.

"Sec. 7-5. *Effect of assessments.* The effect of the act of levying assessments under the authority of this Chapter shall for all purposes be the same as if the assessments were levied under authority of G.S. Chapter 160A, Article 10.

"Chapter VIII.

"Regulatory Powers.

"Sec. 8-1. *Subdivisions; require installation of improvements.* In connection with subdivision or platting controls, the board of commissioners may require the improvement and grading of streets and the construction and installation of street pavements, curbs, gutters, sidewalks, and water, sewer, surface-water drainage and other utility mains as a condition precedent to approval of the plat. The requirements may provide for tentative approval of the plat previous to such improvement and installation, but any such tentative approval shall not be entered on the plat. The requirements may provide that in lieu of completion of the work and installations prior to final approval of the plat, the board may accept a bond, in an amount and with surety and conditions satisfactory to it, providing for and securing to the town the actual construction and installation of the improvements and utilities within a period specified by the board and expressed in the bond. The town is empowered to enforce the bond by all appropriate legal and equitable remedies. Requirements adopted hereunder may be applied throughout the area over which the town is authorized by law to exercise platting or subdivision controls.

"Sec. 8-2. *Removal of offensive matter; charges a lien.* The city council may by ordinance establish a procedure whereby city forces may clean, cut, and remove any weeds, trash, refuse or other offensive matter from any property upon failure of the owner or occupant after 10 days' notice to do so. In such event, the cost of such cleaning, cutting, and removal shall become a lien upon the particular property and may thereafter be collected either by suit in the name of the city or by foreclosure of the lien in the same manner and subject to the same rules, regulations, costs, and penalties as provided by law for the foreclosure of the lien on real property for ad valorem taxes, as provided in G.S. 160A-193.

"Sec. 8-3. *Alternative condemnation procedures.* In exercising the power of eminent domain for any public purpose, if negotiations for the purchase of land or rights in land are unsuccessful the town may in its discretion use the procedures of Article 2 of Chapter 40 of the General Statutes or Article 9 of Chapter 136 of the General Statutes, or the procedures of any other general law, charter or local act applicable to the town. As contained in Article 9 of Chapter 136 of the General Statutes, all reference to 'Board of Transportation' shall be deemed to mean 'Town of Grifton'; all reference to the 'Chairman of the Board of Transportation' or 'Director of Highways' shall be deemed to mean 'Mayor of the Town of Grifton'; all references to authority or persons or agencies connected therewith shall be deemed to refer to the Town of Grifton.

Provided, however, that the provisions of this section shall not apply with regard to properties owned by public service corporations as defined in G.S. 160A-243(c) unless the exercise of such power of eminent domain is either

consented to by the owner of the property to be acquired by the town, or otherwise first adjudicated after notice and a hearing that such acquisition will not prevent or unreasonably impair the continued devotion to the public use of such properties and the operation by such public service corporation.

"Chapter IX.

"Claims Against the Town.

"Sec. 9-1. *Presentation of claims; suit upon claims.* (a) All claims or demands against the Town of Grifton arising in tort or in contract shall be presented to the board of commissioners in writing, signed by the claimant, his attorney or agent, within ninety days after the claim or demand is due or the cause of action accrues, and no suit or action shall be brought thereon within thirty days or after the expiration of twelve months from the time said claim or demand is so presented. Unless the claim or demand is so presented within ninety days after the cause of action accrues, and unless suit is brought within twelve months thereafter, any action thereon is barred.

(b) No action shall be instituted against the town on account of damages to or compensation for real property taken or used by the town for any public purpose, or for the ejectment of the town therefrom, or to remove a cloud upon the title thereof, unless, within two years after such alleged use, the owner, his executor, administrator, guardian, or next friend, shall have given notice in writing to the board of commissioners of the claims, stating in the notice the date that the alleged use commenced, a description of property alleged to have been used, and the amount of the damage or compensation claimed.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, if a complainant suffers from physical or mental incapacity that renders it impossible for him to give notice, his action shall not be barred if notice of claim is given by him or on his behalf within six months after the termination of his incapacity; provided, that minority shall not of itself constitute physical or mental incapacity. If the complainant is a minor, his action shall not be barred if notice of claim is given on his behalf within three years after the happening or the infliction of the injury complained of; or, if the minor suffers from physical or mental incapacity that renders it impossible for him to give notice, his action shall not be barred if notice of claim is given on his behalf within six months after termination of the incapacity, or within three years after the happening or the infliction of the injury complained of, whichever is the longest period. The town may at any time request the appointment of a next friend to represent any person having a potential claim against the town and known to be suffering from physical or mental incapacity.

"Sec. 9-2. *Settlement of claims.* The board of commissioners may authorize the town attorney to settle claims against the town for (1) personal injuries or damages to property when the amount involved does not exceed the sum of one hundred dollars ($100.00) and does not exceed the actual loss sustained, including loss of time, medical expenses, and any other expense actually incurred and (2) the taking of small portions of private property which are needed for the rounding of corners at intersections of streets, when the amount involved in any such settlement does not exceed five hundred dollars ($500.00) and does not exceed the actual loss sustained. Settlement of a claim by the town attorney pursuant to this section shall constitute a complete release of the town from any and all damages sustained by the person involved in such settlement in any manner arising out of the accident, occasion, or taking complained of.

"Chapter X.

"Charter Amendments.

"Sec. 10-1. *Incorporation of amendments.* As soon as possible after the adjournment of each General Assembly, the town attorney shall present to the board of commissioners a summary of all local and general laws relating to the property, affairs, and government of the Town of Grifton that were enacted by such General Assembly, whether or not amending in terms of this Charter. After considering the recommendations of the town attorney, the board may provide for incorporation of such laws into this Charter."

Sec. 2. The purpose of this act is to revise the Charter of the Town of Grifton and to consolidate herein certain acts concerning the property, affairs, and government of the town. It is intended to continue without interruption those provisions of prior acts which are consolidated into this act, so that all rights and liabilities that have accrued are preserved and may be enforced.

Sec. 3. This act shall not be deemed to repeal, modify, nor in any manner to affect any of the following acts, portions of acts, or amendments thereto, whether or not such acts, portions of acts, or amendments are expressly set forth herein:

(a) Any acts concerning the property, affairs, or government of public schools in the Town of Grifton;

(b) Any acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind.

Sec. 4. The following act, having served the purpose for which enacted, and having been consolidated into this act, is hereby repealed: Chapter 812, Session Laws 1969.

No provision of this act is intended, nor shall be construed, to affect in any way any rights or interests (whether public or private):

(a) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act;

(b) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken (including the adoption of ordinances or resolutions) pursuant to or within the scope of any provision of law repealed by this act.

Sec. 5. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(a) The repeal herein of any act repealing such law, or

(b) Any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

Sec. 6. (a) All existing ordinances and resolutions of the Town of Grifton, and all existing rules or regulations of departments or agencies of the Town of Grifton, not inconsistent with the provisions of this act, shall continue in full force and effect until repealed, modified or amended.

(b) No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act by or against the Town of Grifton or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

Sec. 7. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the

invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 8. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 9. This act shall be effective upon its ratification.

In the General Assembly read three times and ratified, this the 4th day of June, 1975.

S. B. 672 CHAPTER 481

AN ACT TO AMEND G.S. 159-30(c)(5) IN ORDER TO UPDATE LANGUAGE ALLOWING INVESTMENT OF IDLE FUNDS BY LOCAL GOVERNMENT OFFICIALS IN SAVINGS AND LOAN ASSOCIATIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 159-30(c)(5) is repealed and replaced by a new G.S. 159-30(c)(5) to read as follows:

"(5) Savings certificates, investment certificates, shares of or deposits in any savings and loan association organized under the laws of this State and savings certificates, investment certificates, shares of or deposits in any federal savings and loan association having its principal office in this State to the extent that the investment in such certificates, shares or deposits is fully insured by the United States of America or an agency thereof or by any mutual deposit guaranty association authorized by the Administrator of the Savings and Loan Division of the State to do business in North Carolina pursuant to Article 7A of Chapter 54 of the General Statutes."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of June, 1975.

S. B. 673 CHAPTER 482

AN ACT TO AMEND G.S. 147-69.1 IN ORDER TO ALLOW STATE GOVERNMENT OFFICIALS TO INVEST IDLE FUNDS IN CERTIFICATES, SHARES, OR DEPOSITS IN SAVINGS AND LOAN ASSOCIATIONS.

The General Assembly of North Carolina enacts:

Section 1. The first paragraph of G.S. 147-69.1 is repealed and a new paragraph substituted for it to read as follows:

"It shall be the duty of the State Treasurer, with assistance of the Director of the Budget, on or before the tenth day of each calendar month, and upon request of the Governor or the Council of State at any other time, to carefully analyze the amount of cash in the General Fund and in all special funds credited to any special purpose designated by the General Assembly or held to meet the budgets or appropriations for maintenance and permanent improvements of the several institutions, boards, departments, commissions, agencies, persons or corporations of the State. Upon the completion of this analysis the State Treasurer shall determine when in his opinion, the cash in any such funds is in excess of the amount required to meet the current needs and demands on such funds, and report his findings to the Governor and the Council of State. The

Governor and the State Treasurer, acting jointly, with the approval of the Council of State, are hereby authorized to invest such excess funds:

(1) In bonds, notes, certificates of indebtedness and bills of the United States of America or in obligations which are fully guaranteed by the United States of America; or

(2) In bonds, notes and other obligations of the Federal Intermediate Credit Banks, the Federal Home Loan Banks, the Federal National Mortgage Association, Banks for Cooperatives, and the Federal Land Banks; or

(3) In bonds and notes of the State of North Carolina; or

(4) In certificates of deposit issued by banks or official depositories within the State of North Carolina, yielding a return at rates not less than those available on United States treasury bonds, notes, certificates of indebtedness or bills of comparable maturities; or

(5) In savings certificates, investment certificates, shares of or deposits in any savings and loan association organized under the laws of this State and savings certificates, investment certificates, shares of or deposits in any federal savings and loan association having its principal office in this State, to the extent that the investment in such certificates, shares or deposits is fully insured by the United States of America or an agency thereof or by any mutual deposit guaranty association authorized by the Administrator of the Savings and Loan Division of the State to do business in North Carolina pursuant to Article 7A of Chapter 54 of the General Statutes, so long as those certificates, shares or deposits yield a return at rates not less than those available on United States treasury bonds, notes, certificates of indebtedness, or bills of comparable maturities.

Notwithstanding the above, if such rates on United States treasury bonds, notes, certificates of indebtedness or bills of comparable maturity are higher than the rates banks or savings and loan associations are permitted to pay by federal or State statutes or regulations and if in the judgment of the Governor and the Council of State it would benefit the economy of the State, such excess funds may be invested in certificates of deposit issued by banks or official depositories within the State of North Carolina at the maximum rate that banks are permitted to pay by federal or State statutes or regulations, or such excess funds may be invested in savings certificates, investment certificates, shares of or deposits in savings and loan associations in the State of North Carolina at the maximum rate that savings and loan associations are permitted to pay by federal or State statutes or regulations. The said funds shall be invested so that in the judgment of the Governor and the State Treasurer they may be readily converted into money at such time as the money will be needed. The interest received on all such deposits and the income from such investments, unless otherwise required by law, shall be paid into the State's General Fund; provided, however, that on and after July 1, 1961, all interest accruing on the monthly balance of the Highway Fund shall be paid to the State Highway Fund."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of June, 1975.

S. B. 702

CHAPTER 483

AN ACT TO AMEND THE NORTH CAROLINA BOATING SAFETY ACT TO PROVIDE AN OPTIONAL THREE-YEAR REGISTRATION PERIOD FOR MOTORBOATS, AND TO MAKE TECHNICAL CHANGES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 75A-5(a) is hereby amended by rewriting the same to read as follows:

"(a) The owner of each motorboat requiring numbering by this State shall file an application for number with the Wildlife Resources Commission on forms approved by it. The application shall be signed by the owner of the motorboat, or his agent, and shall be accompanied by a fee of three dollars ($3.00) for a one-year period or by a fee of seven dollars and fifty cents ($7.50) for a three-year period. The applicant shall have the option of selecting a one-year numbering period or a three-year numbering period. Upon receipt of the application in approved form, the commission shall have the same entered upon the records of its office and issue to the applicant a certificate of number stating the number awarded to the motorboat and the name and address of the owner, and a validation decal indicating the expiration date of the certificate of number. The owner shall paint on or attach to each side of the bow of the motorboat the identification number in such manner as may be prescribed by rules and regulations of the commission in order that it may be clearly visible. The number shall be maintained in legible condition. The validation decal shall be displayed on the starboard bow of the motorboat immediately following the number. The certificate of number shall be pocket size and shall be available at all times for inspection on the motorboat for which issued, whenever such motorboat is in operation. Provided, however, any person charged with failing to so carry such certificate of number shall not be convicted if he produces in court a certificate of number theretofore issued to him and valid at the time of his arrest."

Sec. 2. G.S. 75A-5(h) is hereby amended by rewriting the same to read as follows:

"(h) Each certificate of number awarded pursuant to this Chapter must be renewed on or before January 1 of the year following the expiration of the period for which the motorboat was numbered; otherwise, such certificate shall lapse and be void. Application for renewal shall be submitted on forms approved by the Wildlife Resources Commission and shall be accompanied by a fee of three dollars ($3.00) for a one-year period or by a fee of seven dollars and fifty cents ($7.50) for a three-year period; provided, there shall be no fee required for renewal of certificates of number which have been previously issued to commercial fishing boats as defined in G.S. 75A-5.1, upon compliance with all of the requirements of that section."

Sec. 3. G.S. 75A-6(m) is hereby amended by deleting the words "Federal Motorboat Act of 1958 as amended" where the same appear therein and by inserting in lieu thereof the words "Federal Boat Safety Act of 1971 and the federal regulations adopted pursuant thereto."

Sec. 4. This act shall become effective January 1, 1976.

In the General Assembly read three times and ratified, this the 5th day of June, 1975.

S. B. 758

CHAPTER 484

AN ACT PROVIDING FOR THE ELECTION OF COMMISSIONERS OF THE TOWN OF KURE BEACH, NEW HANOVER COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 906 of the Session Laws of 1947, as amended by Chapter 587, Chapter 1163 of the Session Laws of 1949, is hereby amended by striking out all of Section 12 of said amendment and inserting in lieu thereof the following:

"The governing body of the Town of Kure Beach shall be entitled The Board of Commissioners of the Town of Kure Beach, and said board shall consist of five commissioners elected by the qualified voters of the town as herein provided."

Sec. 2. On Tuesday after the first Monday in November, 1975, there shall be elected five commissioners for the town. The three persons receiving the highest number of votes shall be duly certified as commissioners for terms of four years. The two persons receiving the next highest number of votes shall be certified as commissioners for terms of two years. On Tuesday after the first Monday in November, 1977, and on the first Tuesday after the first Monday in November every two years thereafter commissioners shall be elected in the same manner for four years to succeed all commissioners whose terms are then expiring. Said commissioners shall take oath of office before a person qualified to administer said oath and shall be inducted in office as prescribed by G.S. 160A-68. Said commissioners shall hold office during their term of office and until their successors are elected or appointed and qualified.

Sec. 3. All municipal elections held or conducted in the Town of Kure Beach shall be held in accordance with the general municipal election law as set forth in Article 3, Chapter 160 of the General Statutes of North Carolina, as the same may be amended from time to time.

Sec. 4. In December, 1975, and every two years thereafter the Board of Commissioners shall elect from among their number a mayor, commissioner of finance, commissioner of public works, commissioner of public safety, and such other officers as they may designate and select. In addition to their other powers the Board of Commissioners are empowered to appoint, elect, employ, suspend and discharge all other officers and employees necessary for the operation and management of the town government and its various departments and activities, and to enact all ordinances, rules and regulations for the proper government of the town.

Sec. 5. Should a vacancy occur in the Board of Commissioners during the term of any member thereof, the Board of Commissioners shall elect or appoint a qualified successor to hold office for the expiration of said term as prescribed in G.S. 160A-63.

Sec. 6. The compensation and allowances for expenses of the commissioners shall be as prescribed in G.S. 160A-64.

Sec. 7. Section 1 of Chapter 364 of the Session Laws of 1953 and all other laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 8. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of June, 1975.

S. B. 798 **CHAPTER 485**

AN ACT RELATING TO ADMINISTERING THE NORTH CAROLINA LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 128-26 (a), as the same appears in the 1974 Supplement to the General Statutes, is hereby amended by deleting so much of the last sentence thereof as follows the word "System" in line 60.

Sec. 2. G.S. 128-26 (i), as the same appears in the 1974 Supplement to the General Statutes, is hereby amended by deleting so much of the last sentence thereof as follows the word "System" in line 23.

Sec. 3. G.S. 128-26 (j), as the same appears in the 1974 Supplement to the General Statutes, is hereby amended by deleting so much of the last sentence thereof as follows the word "System" in line 22.

Sec. 4. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 5th day of June, 1975.

S. B. 799 **CHAPTER 486**

AN ACT EXTENDING BENEFITS OF THE NORTH CAROLINA LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 128-27(g), as the same appears in the 1974 Supplement to the General Statutes, is hereby amended by the addition of a new option to follow immediately after Option 5 and reading as follows:

"Option 6. A member may elect either Option 2 or Option 3 with the added provision that in the event the designated beneficiary predeceases the member, the retirement allowance payable to the member after the designated beneficiary's death shall be equal to the retirement allowance which would have been payable had the member not elected the option."

Sec. 2. G.S. 128-27, as the same appears in the 1974 Supplement to the General Statutes, is hereby further amended by the addition of a new subsection (r) reading as follows:

"(r) Notwithstanding any of the foregoing provisions, the increase in allowance to each beneficiary on the retirement rolls as of July 1, 1974, which shall become payable on July 1, 1975, and to each beneficiary on the retirement rolls as of July 1, 1975, which shall become payable on July 1, 1976, as otherwise provided in G.S. 128-27(k), shall be the current maximum four percent (4%) plus an additional four percent (4%) to a total of eight percent (8%) for the years 1975 and 1976 only, provided that the increases do not exceed the actual percentage increase in the Consumer Price Index as determined in G.S. 128-27(k). The provisions of this subsection shall apply also to the allowance of a surviving annuitant of a beneficiary."

Sec. 3. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 5th day of June, 1975.

H. B. 575

CHAPTER 487

AN ACT TO PERMIT COUNTIES TO ASSIST IN THE FINANCING OF IMPROVEMENTS TO RURAL SUBDIVISION AND RESIDENTIAL STREETS AND TO LEVY SPECIAL ASSESSMENTS THEREFOR.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153A-185 as the same appears in Replacement Volume 3C of the General Statutes is amended by adding thereto a new paragraph (4), to read as follows:

"(4) constructing, reconstructing, paving, widening, installing curbs and gutters, and otherwise building and improving streets, as provided in G.S. 153A-205."

Sec. 2. A new G.S. 153A-205 is enacted, to read as follows:

"§ 153A-205. *Improvements to subdivision and residential streets.*—(a) A county may finance the local share of the cost of improvements made under the supervision of the Department of Transportation and Highway Safety to subdivision and residential streets that are a part of the State maintained system located in the county and outside of a city and shall levy and collect pursuant to the procedures of Article 9 of Chapter 153A of the General Statutes special assessments against benefited property to recoup that portion of the costs financed by the county. The local share is that share required by policies of the Secondary Roads Council, and may be paid by the county from funds not otherwise limited as to use by law. Land owned, leased, or controlled by a railroad company is exempt from such assessments to the same extent that it would be exempt from street assessments of a city under G.S. 160A-222. No project may be commenced under this section unless it has been approved by the Department of Transportation and Highway Safety.

(b) A county may finance the local share of the cost of improvements made under the supervision of the Department of Transportation and Highway Safety to subdivision and residential streets located in the county and outside of a city in order to bring those streets up to the standards of the Secondary Roads Council so that they may become a part of the State maintained system and shall levy and collect pursuant to the procedures of Article 9 of Chapter 153A of the General Statutes special assessments against benefited property to recoup that portion of the costs financed by the county. The local share is that share required by policies of the Secondary Roads Council, and may be paid by the county from funds not otherwise limited as to use by law. Land owned, leased, or controlled by a railroad company is exempt from such assessments to the same extent that it would be exempt from street assessments of a city under G.S. 160A-222. No project may be commenced under this section unless it has been approved by the Department of Transportation and Highway Safety.

(c) Before a county may finance all or a portion of the cost of improvements to a subdivision or residential street, it must receive a petition for the improvements signed by at least seventy-five percent (75%) of the owners of property to be assessed, who must represent at least seventy-five percent (75%) of all the lineal feet of frontage of the lands abutting on the street or portion thereof to be improved. The petition shall state that portion of the cost of the improvement to be assessed, which shall be the local share required by policies of the Secondary Roads Council.

Property owned by the United States shall not be included in determining the lineal feet of frontage on the improvement, nor shall the United States be included in determining the number of owners of property abutting the improvement. Property owned by the State of North Carolina shall be included in determining frontage and the number of owners only if the State has consented to assessment as provided in G.S. 153A-189. Property owned, leased, or controlled by railroad companies shall be included in determining frontage and the number of owners to the extent the property is subject to assessment under G.S. 160A-222. Property owned, leased, or controlled by railroad companies that is not subject to assessment shall not be included in determining frontage or the number of owners.

No right of action or defense asserting the invalidity of street assessments on grounds that the county did not comply with this subsection in securing a valid petition may be asserted except in an action or proceeding begun within 90 days after the day of publication of the notice of adoption of the preliminary assessment resolution.

(d) This section is intended to provide a means of assisting in financing improvements to subdivision and residential streets that are on the State highway system or that will, as a result of the improvements, become a part of the system. By financing improvements under this section, a county does not thereby acquire or assume any responsibility for the street or streets involved, and a county has no liability arising from the construction of such an improvement or the maintenance of such a street. Nothing in this section shall be construed to alter the conditions and procedures under which State system streets or other public streets are transferred to muncipal street systems pursuant to G.S. 136-66.1 and G.S. 136-66.2 upon annexation by, or incorporation of, a muncipality."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of June, 1975.

S. B. 166 CHAPTER 488

AN ACT TO REQUIRE COMPLIANCE OF SUBDIVISION STREETS WITH MINIMUM STANDARDS OF THE SECONDARY ROADS COUNCIL.

The General Assembly of North Carolina enacts:

Section 1. Chapter 136 of the General Statutes is hereby amended by adding a new section to be numbered G.S. 136-102.6 and to read as follows:

"§ 136-102.6. *Compliance of subdivision streets with minimum standards of the Secondary Roads Council required of developers.*—(a) The owner of a tract or parcel of land which is subdivided from and after the date this act becomes effective into two or more lots, building sites, or other divisions for sale or building development for residential purposes, where such subdivision includes a new street or the changing of an existing street, shall record a map or plat of the subdivision with the register of deeds of the county in which the land is located. The map or plat shall be recorded prior to any conveyance of a portion of said land, by reference to said map or plat.

(b) The right-of-way of any new street or change in an existing street shall be delineated upon the map or plat with particularity and such streets shall be

designated to be either public or private. Any street designated on the plat or map as public shall be conclusively presumed to be an offer of dedication to the public of such street.

(c) The right-of-way and design of streets designated as public shall be in accordance with the minimum right-of-way and construction standards established by the Secondary Roads Council for acceptance on the State Highway System. If a municipal or county subdivision control ordinance is in effect in the area proposed for subdivision, the map or plat required by this section shall not be recorded by the register of deeds until after it has received final plat approval by the municipality or county, and until after it has received a Certificate of Approval by the Division of Highways as herein provided as to those streets regulated in subsection (g). The Certificate of Approval may be issued by a District Engineer of the Division of Highways of the Department of Transportation.

(d) The right-of-way and construction plans for such public streets in residential subdivisions, including plans for street drainage, shall be submitted to the Division of Highways for review and approval, prior to the recording of the subdivision plat in the office of the register of deeds. The plat or map required by this act shall not be recorded by the register of deeds without a Certificate of Approval by the Division of Highways of the plans for the public street as being in accordance with the minimum standards of the Secondary Roads Council for acceptance of the subdivision street on the State Highway System for maintenance. The Certificate of Approval shall not be deemed an acceptance of the dedication of such streets on the subdivision plat or map. Final acceptance by the Division of Highways of such public streets and placing them on the State Highway System for maintenance shall be conclusive proof that the streets have been constructed according to the minimum standards of the Secondary Roads Council.

(e) No person or firm shall place or erect any utility in, over, or upon the existing or proposed right-of-way of any street in a subdivision to which this section applies, except in accordance with the Division of Highway's POLICIES AND PROCEDURES FOR ACCOMMODATING UTILITIES ON HIGHWAY RIGHTS-OF-WAY, until the Division of Highways has given written approval of the location of such utilities. Written approval may be in the form of exchange of correspondence until such times as it is requested to add the street or streets to the State System, at which time an Encroachment Agreement furnished by the Division of Highways must be executed between the owner of the utility and the Division of Highways. The right of any utility placed or located on a proposed or existing subdivision public street right-of-way shall be subordinate to the street right-of-way, and the utility shall be subject to regulation by the Board of Transportation. Utilities are defined as electric power, telephone, television, telegraph, water, sewage, gas, oil, petroleum products, steam, chemicals, drainage, irrigation, and similar lines. Any utility installed in a subdivision street not in accordance with the Division of Highways Accommodation Policy, and without prior approval by the Division of Highways, shall be removed or relocated at no expense to the Division of Highways.

(f) Prior to entering any agreement or any conveyance with any prospective buyer, the developer and seller shall prepare and sign, and the buyer of the subject real estate shall receive and sign an acknowledgement of receipt of a

separate instrument known as the Subdivision Streets Disclosure Statement (hereinafter referred to as Disclosure Statement). Said Disclosure Statement shall fully and completely disclose the status (whether public or private) of the street upon which the house or lot fronts. If the street is designated by the developer and seller as a public street, the developer and seller shall certify that the right-of-way and design of the street has been approved by the Division of Highways, and that the street has been or will be constructed by the developer and seller in accordance with the standards for subdivision streets adopted by the Secondary Roads Council for acceptance on the Highway System. If the street is designated by the developer and seller as a private street, the developer and seller shall include in the Disclosure Statement an explanation of the consequences and responsibility as to maintenance of a private street, and shall fully and accurately disclose the party or parties upon whom responsibility for construction and maintenance of such street or streets shall rest, and shall further disclose that the street or streets will not be constructed to minimum standards, sufficient to allow their inclusion on the State Highway System for maintenance. The Disclosure Statement shall contain a duplicate original which shall be given to the buyer. Written acknowledgement of receipt of the Disclosure Statement by the buyer shall be conclusive proof of the delivery thereof.

(g) The provisions of this section shall apply to all subdivisions located outside municipal corporate limits. As to subdivisions inside municipalities, this section shall apply to all proposed streets or changes in existing streets on the State Highway System as shown on the comprehensive plan for the future development of the street system made pursuant to G.S. 136-66.2, and in effect at the date of approval of the map or plat.

(h) The provisions of this section shall not apply to any subdivision that consists only of lots located on Lakes Hickory, Norman, Mountain Island and Wylie which are lakes formed by the Catawba River which lots are leased upon the effective date of this act. No roads in any such subdivision shall be added to the State maintained road system without first having been brought up to standards established by the Secondary Roads Council for inclusion of roads in the system, without expense to the State. Prior to entering any agreement or any conveyance with any prospective buyer of a lot in any such subdivision, the seller shall prepare and sign, and the buyer shall receive and sign an acknowledgement of receipt of a statement fully and completely disclosing the status of and the responsibility for construction and maintenance of the road upon which such lot is located.

(i) The purpose of this section is to insure that new subdivision streets described herein to be dedicated to the public will comply with the State standards for placing subdivision streets on the State Highway System for maintenance, or that full and accurate disclosure of the responsibility for construction and maintenance of private streets be made. This section shall be construed and applied in a manner which shall not inhibit the ability of public utilities to satisfy service requirements of subdivisions to which this section applies.

(j) A willful violation of any of the provisions of this act shall be a misdemeanor."

Sec. 2. This act shall become effective October 1, 1975.

In the General Assembly read three times and ratified, this the 6th day of June, 1975.

S. B. 262 **CHAPTER 489**

AN ACT TO PROVIDE AN ADDITIONAL TAX EXEMPTION FOR HEMOPHILIACS.

Whereas, there are at least 450 individuals in North Carolina who are significantly affected by hemophilia, physically, emotionally, economically and socially; and

Whereas, hemophilia is a catastrophic illness that places a heavy strain on the individual, and his family, to the extent that the total cost of the illness is immeasurable; and

Whereas, according to the National Hemophilia Foundation, the cost of medical treatment alone for the average hemophiliac ranges from five thousand dollars ($5,000) to twenty thousand dollars ($20,000) per year, a cost most families cannot meet; and

Whereas, it is therefore desirable that such persons be given additional relief from taxation; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-149 as the same appears in the 1974 Cumulative Supplement of the 1972 Replacement Volume 2D of the General Statutes of North Carolina is hereby amended to add the following new exemption to be inserted between subdivisions (a)(8) and (a)(9) as follows:

"In the case of hemophiliacs meeting the criteria herein contained, such persons shall be entitled to an additional exemption of one thousand dollars ($1,000) in addition to all other exemptions provided by law. Eligible hemophiliacs shall be those who submit to the Division of Health Services of the Department of Human Resources a certificate from a physician or county health department, certifying that their condition is medically characterized as moderate or severe in the case of deficiencies of Factor VIII or Factor IX, or in the case of deficiencies in Factors I - VII or Factors X - XIII certifying that their condition causes physical or financial conditions similar to those resulting from Factor VIII or Factor IX deficiencies; and who attach a supporting statement to their North Carolina Income Tax Return, including verification that said certificate has been obtained and submitted to the Division of Health Services of the Department of Human Resources.

An additional exemption of one thousand dollars ($1,000) is allowed in addition to all other exemptions provided by law, for each dependent (as defined in subdivision (a)5 above), who is a hemophiliac meeting the criteria set out in the above paragraph."

Sec. 2. The Division of Health Services of the Department of Human Resources is hereby directed to develop said certificate and inform physicians and county health departments of its availability.

Sec. 3. This act shall become effective on January 1, 1976.

In the General Assembly read three times and ratified, this the 6th day of June, 1975.

S. B. 773 **CHAPTER 490**

AN ACT TO PROVIDE FOR CONTINUING REVIEW OF GOVERNMENTAL OPERATIONS BY THE GENERAL ASSEMBLY.

The General Assembly of North Carolina enacts:

Section 1. A new Article 13 is added to Chapter 120 of the General Statutes of North Carolina to read as follows:

"ARTICLE 13.

"'Joint' Legislative Commission on Governmental Operations.

"§ 120-70.1. *Purpose.*—The rapid increase in the functions and costs of State government and the complexity of agency operations deeply concerns the General Assembly. Members of the General Assembly have the ultimate responsibility for making public policy decisions and deciding on appropriations of public monies. Knowledge of the public service needs being met, having evidence as to whether previous policy and appropriations have resulted in expected program benefits, and data on how State government reorganization has affected agency operations is most important.

Legislative examination and review of public policies, expenditures and reorganization implementation as an integral part of legislative duties and responsibilities should be strengthened. For the purpose of performing such continuing examination and evaluation of State agencies, their actual effectiveness in programming and in carrying out procedures under reorganization, the General Assembly herein provides for the continuing review of operations of State government.

"§ 120-70.2. *Definition.*—For the purposes of this act, program evaluation is defined as: An examination of the organization, programs, and administration of State government to ascertain whether such functions (1) are effective, (2) continue to serve their intended purposes, (3) are efficient, and (4) require modification or elimination.

"§ 120-70.3. *Commission established.*—There is hereby established the Joint Legislative Commission on Governmental Operations, hereinafter called the commission, which shall conduct evaluative studies of the programs, policies, practices and procedures of the various departments, agencies, and institutions of State government.

"§ 120-70.4. *Appointment of members.*—The commission shall consist of 10 members. The President of the Senate shall appoint five members of the Senate, and the Speaker of the House of Representatives shall appoint five members of the House. Vacancies created by resignation or otherwise shall be filled by the original appointing authority. Members shall serve two-year terms beginning and ending on January 15 of the odd-numbered years, except that initial appointments shall begin on July 1, 1975. Members shall not be disqualified from completing a term of service on the commission because they fail to run or are defeated for re-election. Resignation or removal from the General Assembly shall constitute resignation or removal from membership on the commission. The terms of the initial members of the commission shall expire January 15, 1977.

"§ 120-70.5. *Organization of the commission.*—The chairman of the commission shall be elected from among the membership of the commission and shall serve for a term of one year, ending on the first day of July each year.

"§ 120-70.6. *Powers and duties of the commission.*—The commission shall have the following powers:

(1) To conduct program evaluation studies of the various components of State agency activity as they relate to:

a. service benefits of each program relative to expenditures;
b. achievement of program goals;
c. use of indicators by which the success or failure of a program may be gauged; and
d. conformity with legislative intent.

(2) To study legislation which would result in new programs with statewide implications for feasibility and need. These studies may be jointly conducted with the Fiscal Research Division of the Legislative Services Commission.

(3) To study on a continuing basis the implementation of State government reorganization with respect to:

a. improvements in administrative structure, practices and procedures;
b. the relative effectiveness of centralization and decentralization of management decisions for agency operation;
c. opportunities for effective citizen participation; and
d. broadening of career opportunities for professional staff.

(4) To make such studies and reports of the operations and functions of State government as it deems appropriate or upon petition by resolution of either the Senate or the House of Representatives.

(5) To produce routine written reports of findings for general legislative and public distribution. Special attention shall be given to the presentation of findings to the appropriate committees of the Senate and the House of Representatives. If findings arrived at during a study have a potential impact on either the finance or appropriations deliberations, such findings shall immediately be presented to the committees. Such reports shall contain recommendations for appropriate executive action and when legislation is considered necessary to effect change, draft legislation for that purpose may be included. Such reports as are submitted shall include but not be limited to the following matters:

a. ways in which the agencies may operate more economically and efficiently;
b. ways in which agencies can provide better services to the State and to the people; and
c. areas in which functions of State agencies are duplicative, overlapping, or failing to accomplish legislative objectives, or for any other reason should be redefined or redistributed.

(6) To devise a system, in cooperation with the Fiscal Research Division of the Legislative Services Commission, whereby all new programs authorized by the General Assembly incorporate an evaluation component. The results of such evaluations may be made to the Appropriations Committees at the beginning of each regular session.

"§ 120-70.7. *Additional powers.*—The commission, while in the discharge of official duties, shall have access to any paper or document, and may compel the attendance of any State official or employee before the commission or secure any evidence under the provisions of G.S. 120-19.

"§ 120-70.8. *Compensation and expenses of commission members.*—Members of the commission shall receive subsistence and travel allowances at the rates set

forth in G.S. 120-3.1 for General Assembly members. The commission shall be funded by the Legislative Services Commission from appropriations made to the General Assembly for that purpose.

"§ 120-70.9. *Commission staffing.*—(a) The commission shall use available secretarial employees of the General Assembly, or may employ, and may remove, such professional and clerical employees as the commission deems proper. The chairman may assign and direct the activities of the employees of the commission, subject to the advice of the commission.

(b) The employees of the commission shall receive salaries that shall be fixed by the Legislative Services Commission and shall receive travel and subsistence allowances fixed by G.S. 138-6 and G.S. 138-7, when such travel is approved by the chairman, subject to the advice of the commission. The employees of the commission shall not be subject to the Executive Budget Act or to the State Personnel Act.

(c) The commission may use employees of the Fiscal Research Division of the Legislative Services Commission.

(d) The commission shall assure that sufficient funds are available within its appropriations before employing professional and clerical employees."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of June, 1975.

S. B. 827 CHAPTER 491

AN ACT TO PROVIDE A CONSOLIDATED AND REVISED CHARTER FOR THE TOWN OF EDENTON IN CHOWAN COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Edenton is hereby revised and consolidated to read as follows:

"ARTICLE 1.

"General Provisions.

"Sec. 1-1. *Body politic and corporate; powers generally.* The Town of Edenton shall continue to be a body politic and corporate, incorporated under the name 'Town of Edenton'. Under that name the town shall have perpetual succession, may adopt a corporate seal, may sue and be sued, may enter into contracts and shall have all the rights, powers and duties now or hereafter prescribed by the general laws of North Carolina pertaining to incorporated cities and towns and as more particularly prescribed by this charter as now written or as hereafter amended.

"Sec. 1-2. *Corporate boundaries.* The corporate boundaries of the Town of Edenton shall be as follows until hereafter changed from time to time as provided by the laws of North Carolina:

Beginning at the Northwestern corner of the intersection of Hubley Drive leading to the Carter Ink Plant and N. C. Highway #32; thence along the Northern margin of N. C. Highway #32, a curve, R= 1493 feet, 561 feet to a point in the Northern Margin of N. C. Highway #32 at the center of a branch of Queen Anne Creek; thence along said branch South 24° 20' West, 1,075' to a point; thence along said branch South 84° 45' West, 635 feet to a point; thence along said branch South 27° 40' West, 1,680 feet to a point in Queen Anne Creek; thence along Queen Anne Creek South 87° 45' West 890 feet to a point;

thence along Queen Anne Creek North 45° 45' West, 1,035 feet to a point; thence leaving Queen Anne Creek and entering Edenton Bay South 84° 00' West, 1,491 feet to a point in Edenton Bay; thence North 55° 15' West, 2,135 feet to a point in Pembroke Creek; thence along Pembroke Creek South 63° 30' West, 1,065 feet to a point; thence along Pembroke Creek South 50° 00' West 1,105 feet to a point; thence along Pembroke Creek North 55° 40' West 575 feet to a point; thence South 79° 45' West, 470 feet to a point at the shoreline of Pembroke Creek; thence North 89° 00' West 4,968.5 feet to a point; thence North 5° 00' East, 520 feet to a point; thence North 88° 00' West, 284 feet to a point; thence North 6° 00' East, 598 feet to a point; thence South 81° 40' East, 75 feet to a point; thence North 08° 20' East 174 feet to a point in the Southern margin of West Queen Street Extended and U. S. Highway #17; thence along the Southern margin of U. S. Highway #17 South 81° 40' East, 193 feet; thence North 05° 00' East, 1,580 feet to a point; thence South 85° 00' East, 1,083 feet to a point; thence North 26° 40' East 308 feet to a point in the shoreline of Pembroke Creek; thence North 74° 05' East 2,205 feet to a point; thence North 27° 00' East 2,625 feet to a point; thence South 66° 16' East 3,160.5 feet to a point; thence North 72° 05' East, 726 feet to a point; thence North 52° 56' East 2,748.4 feet to a point; thence North 70° 02' East 2,020 feet to a point in the Western line of Main Street Extended at Eden Heights; thence North 26° 52' East, 1,543.4 feet to a point; thence North 16° 23' East, 368.2 feet to a point; thence South 68° 05' East, 696 feet to a point in the Western margin of N. C. Highway #1319; thence South 49° 33' East, 1,552 feet to a point; thence North 54° 00' East 881 feet to a point; thence along a curve,R=2865 feet, 396 feet to a point; thence North 47° 00' East, 520 feet to a point in the Southwestern margin of Peanut Drive; thence North 57° 50' West 894.5 feet to a point; thence North 40° 55' East, 1,347.5 feet to a point; thence North 69° 00' East 218.4 feet to a point; thence North 70° 00' East, 266 feet to a point; thence North 71° 45' East 300 feet to a point; thence South 57° 10' East, 804.7 feet to a point; Thence North 47° 00' East, 653 feet to a point; thence South 33° 35' West 994 feet to a point; thence South 33° 15' West, 320 feet to a point; thence South 36° 15' East, 2,021 feet to a point; thence South 50° 15' West 504 feet to a point; thence along a curve, R=1433 feet, 418 feet to a point; thence South 49° 00' West 653 Feet to a point; thence South 33° 35' West 3,058 feet to a point; thence South 81° 50' East, 1,722 feet to a point; thence South 47° 48' East 670 feet to a point; thence South 63° 35' East 239' to a point; thence South 41° 10' West 2,297 feet to a point; thence South 61° 10' West 1,284 feet to a point in the Northeastern margin of N. C. Highway #32; thence North 61° 10' West, 876 feet along the Northeastern margin of N. C. Highway #32, to a point, the point and place of beginning, said description being taken from survey prepared by Carlyle C. Webb, Registered Surveyor, dated February 5, 1975, entitled 'Town of Edenton, N. C. Corporate Limits'.

"ARTICLE 2.

"Mayor and Board of Councilmen.

"Sec. 2-1. *Composition; election; term.* The legislative body of the Town of Edenton shall consist of a mayor and a board of councilmen composed of six councilmen to be elected as follows:

The councilman from each of the four wards as described in Section 3-2 shall be elected by all the voters of the town voting at large, and candidates for such office shall have been a resident of the ward from which he is a candidate for a

period of not less than 30 days next preceding the date of the election. The candidate in each of the four wards receiving the largest number of votes cast by all the voters of the town shall be declared elected councilman from the ward in which he is a candidate. The candidate running for the at-large position receiving the largest number of votes cast by all the voters of the town shall be declared elected councilman at large.

Councilmen are elected to four-year staggered terms. In the regular election in November, 1975, and each four years thereafter, there shall be elected a councilman at large and councilmen from the first and second wards. In the regular election in November, 1977, and each four years thereafter, there shall be elected a councilman at large and councilmen from the third and fourth wards.

The mayor shall be elected biennially and shall serve for a term of two years.

"Sec. 2-2. *Organization and procedures.* The legislative body of the Town of Edenton shall organize and conduct its proceedings pursuant to Sections 160A-68 to 160A-82 of the General Statutes of North Carolina.

The board of councilmen, as a body, shall have control and supervision over all departments of the town, and to that end shall have power to make and enforce such rules and regulations as it may deem fit and proper concerning the organization, management, and operation of all the departments of the town and of such agencies as may be created for the administration of its affairs. The board of councilmen shall create the following committees, each composed of two councilmen, to perform the functions and duties herein prescribed:

(a) Committee on Finance and Revenue, to oversee the preparation of the annual budget and the recommendations as to the levy of taxes, the collection of revenues, and the management of all financial affairs of the town

(b) Committee on Utilities, to oversee the affairs of the Electric and Water Department and to recommend policies as to utility extensions, enlargements, and rates

(c) Committee of Public Works, to oversee the affairs of the street, health, sanitation, and engineering departments, and the operation and condition of the Town Common and all other public parks and squares of the town. The board of councilmen may from time to time assign additional duties to one or more of the committees herein authorized, and the board of councilmen or the mayor may from time to time create other committees for other specific purposes or functions.

"Sec. 2-3. *Powers.* The legislative body of the Town of Edenton shall have all the powers conferred by the provisions of this charter and the General Statutes of North Carolina, and shall consist of a mayor, and a board of councilmen of six members elected as provided by this charter.

"Sec. 2-4. *Term of office to begin.* The mayor and councilmen, and the treasurer elected as provided in this charter, shall be qualified before any justice of the peace, or other officer authorized to administer oaths, at the time specified in G.S. 160A-68.

"Sec. 2-5. *Oath of office.* Before entering upon the duties of their respective offices, each of the officers as provided in this charter, shall be qualified by taking the oath required by Article VI, Section 7 of the Constitution before some officer authorized to administer oaths.

"Sec. 2-6. *Officials disqualified for certain positions.* No member of the board of councilmen, or the mayor, shall ever be elected or appointed to any office

(except a town office filled by election by the people) created by or the compensation of which was increased or fixed by the board while he was a member thereof until after the expiration of at least two years after he has ceased to be a member of said board.

"Sec. 2-7. *Mayor to preside.* The mayor shall preside at all meetings and shall be allowed to vote at said meetings only in case of a tie.

"Sec. 2-8. *Mayor pro tempore.* The board of councilmen shall name one of its members as mayor pro tempore to act during the absence of the mayor with the same authority as is vested in the mayor.

"Sec. 2-9. *Meetings.* The board of councilmen shall meet at least once every month in regular meeting, at such time and place as may be fixed by ordinance. The board of councilmen may provide for the holding of special and adjourned meetings.

"Sec. 2-10. *Quorum.* Four members of the board of councilmen shall constitute a quorum for the transaction of business, but no final action shall be taken in any matter respecting the department of any absent councilman, unless such business has been made a special order, with notice to such councilman of such contemplated action, or unless such action is taken at a regular meeting of the board.

"Sec. 2-11. *Vacancies.* In case of any vacancy from any cause in the office of mayor, treasurer, or any councilman, the board of councilmen shall by a majority vote of all the members thereof elect some suitable person to fill the unexpired term. The resignation of the mayor, treasurer, or any councilman, shall be made in writing to the board of councilmen for their action thereon. If the mayor or any other officer shall remove his residence from the territorial limits of Edenton, such removal shall, ipso facto, be deemed to create a vacancy in his office.

"Sec. 2-12. *Procedure.* The board of councilmen may fix by ordinance the procedure governing the conduct of its meetings, not inconsistent with the provisions of this charter.

"Sec. 2-13. *Mayor - Chief Executive Officer.* He shall be the chief executive officer of the town, and shall have general supervision and control of all other officers, departments and affairs of government of the town, and shall take care that the provisions of this act and all ordinances of the town are complied with.

"Sec. 2-14. *Same - Appointment of committees.* All committees shall, unless otherwise ordered, be appointed by the mayor.

"Sec. 2-15. *Same - Signing commissions; approval of bonds.* The mayor shall sign the commissions of all officers elected or appointed by the town and endorse the approval of all official bonds by the said board of councilmen.

"Sec. 2-16. *Same - Recommendations.* The mayor shall from time to time communicate to the board of councilmen, in writing, such information and recommend such measures as in his opinion may tend to the improvement of the finances of the town, the police, health, security, ornament, comfort, and general prosperity of the town.

"Sec. 2-17. *Same - Officers to exhibit books.* The mayor shall have the power to require any officer of the town to exhibit his accounts or other papers, and to make reports to the said board, in writing, touching any subject or matter pertaining to said officers, whenever he may deem it necessary.

"Sec. 2-18. *Residence requirement.* No person shall be eligible to any appointive office unless he shall be a bona fide resident of the town prior to his

appointment, except that the town may hire nonresident expert employees when deemed necessary by the board of councilmen.

"Sec. 2-19. *Removal of officers.* The board of councilmen shall have power to remove any elective or appointive officer for misfeasance, neglect or malfeasance in office, upon charges preferred, after due notice, in writing and opportunity to be heard in their defense. When such charges are sustained, any such officer shall be removed by resolution of the board of councilmen, passed by a vote of at least four of the members of said board, declaring that the charges preferred have been proven and that such office is vacant, and may by ordinance prescribe, limit or change the compensation of all appointive officers and employees.

"ARTICLE 3.

"Elections.

"Sec. 3-1. *Conduct.* All town elections shall be conducted by the county and pursuant to Chapter 163 of the General Statutes of North Carolina and the options thereunder for the conduct of municipal elections and the registration of voters under the nonpartisan plurality method of municipal elections.

"Sec. 3-2. *Wards described.* For the purpose of town elections, the Town of Edenton is hereby divided into wards as follows:

FIRST WARD. That portion of the town bounded on the North by the center of West Albemarle Street, on the East by the center line of Broad Street, on the South and West by the boundaries of the town to constitute and be known as the First Ward.

SECOND WARD. That portion of the town bounded on the North by the center line of East Freemason Street to Old Hertford Road and then the center line of N. C. 32 and on the East and South by the boundaries of the town, on the West by the center line of Broad Street to constitute and be known as the Second Ward.

THIRD WARD. That portion of the town bounded on the East by the center line of Broad Street and Paradise Road, bounded on the North and West by the outer boundaries of the town and on the South by the center line of West Albemarle Street to constitute and be known as the Third Ward.

FOURTH WARD. That portion of the town bounded on the West by the center line of Broad Street and Paradise Road, on the North and East by the outer boundaries of the town and on the South by the center line of East Freemason Street and Old Hertford Road where it bisects N. C. 32 and N. C. 32 to the city limits to constitute and be known as the Fourth Ward.

"ARTICLE 4.

"Officers and Employees.

"Sec. 4-1. *Town administrator.* (1) Appointment. The board of councilmen shall appoint an administrative officer whose title shall be town administrator. The town administrator shall be appointed with regard to merit only and need not be a resident of the town at the time of his appointment. The mayor or any member of the board of councilmen shall not be eligible for appointment as town administrator.

(2) Combined office; term; compensation. The office of town administrator may be combined with any other town office and the administrator shall perform the duties of such other offices as may be directed by the board of councilmen. The town administrator shall hold office at the pleasure of the board of councilmen and shall receive such compensation as the board may by ordinance determine.

(3) Duties. The town administrator shall perform the following duties:

(a) He shall be chief administrative officer of the town government responsible to the mayor and the board of councilmen for the performance of his duties. The administrator shall perform or supervise the performance of all administrative affairs of the town as he may be authorized and directed so to do by the mayor and the board of councilmen.

(b) He shall attend all regular meetings of the board of councilmen. In addition he shall attend all committee meetings of the board when requested by the mayor or the board of councilmen.

(c) He shall make investigations and reports concerning town government affairs for the mayor and board as they may direct and as the administrator shall from time to time deem necessary. Reports may include recommendations for adopting such measures as the administrator may deem best for the good government of the municipality.

(d) He shall keep the commissioner of finance and revenue, the mayor and the board of councilmen fully advised of the town's financial condition and its future financial needs, and to perform such fiscal control duties in connection therewith as may from time to time be authorized or required by the board of councilmen.

(e) He shall coordinate the activities of all departments and see that superintendents and other town employees perform their duties and functions as may be required.

(f) He shall perform such other duties and functions as the board of councilmen may prescribe.

(g) He shall appoint, subject to confirmation of Town Council, individuals to the following positions: Director of Utilities, Chief of Police, Chief of Fire Department, Street Department Superintendent, Building Inspector, City Clerk, Tax Collector, and Recreation. Other employees will be appointed by the department head supervising the employee, subject to the approval of the town administrator.

(4) Relationship with other departments. The superintendent or operating head of the various town departments shall be directly responsible to the administrator who in turn shall be directly responsible to the mayor and board of councilmen. It is the intent of this section to establish a line of responsibility from the superintendent or operating department head through the administrator to the mayor and the board of councilmen. The administrator is responsible for maintaining fiscal control of the budgeted items of the various departments.

"Sec. 4-2. *Town clerk—compensation; bond.* The clerk shall be allowed a reasonable salary, and enter into bond with the board of councilmen and their successors, with sufficient security for the due and faithful execution of his office, and the trust reposed in him for the safekeeping of the books and papers put into his care, and keeping a regular and fair journal of the proceedings of the board of councilmen.

"Sec. 4-3. *Same—duties.* The clerk shall attend all meetings of the board of councilmen. He shall keep a true record of all its proceedings, and also keep a record of all its official acts, and when necessary shall attest them. He shall also keep and preserve in his office the corporate seal of the town, all records, police papers, and documents of the town not belonging to any other officer. He shall be authorized to administer oaths; and the copies of all papers filed in his office,

and transcript from the records of the proceedings of the council, including ordinances duly certified by the mayor under the corporate seal of the town, shall be taken as evidence in all courts of the State without further proof. He shall draw all warrants on the town treasurer, issue all licenses and perform such other duties as may be prescribed by ordinance.

"Sec. 4-4. *Treasurer—election; term.* The treasurer of the Town of Edenton shall be elected biennially at the same time provided for the election of the mayor to serve for a term of two years.

"Sec. 4-5. *Same—duties generally.* The town treasurer shall give a good and sufficient bond, in some reputable surety company, to the town, in such amount and in such form as may be prescribed by the board of councilmen, in a sum not less than ten thousand dollars ($10,000), and the cost of such bond shall be borne by the town, and said bond, before its acceptance, shall be approved by the mayor and shall be conditioned for the faithful discharge of his duties, and that such treasurer shall safely keep all public monies entrusted to his care, and save such town free and harmless from all loss caused by neglect of duty or malfeasance in office. Said board shall require the treasurer to give a new bond whenever in their opinion the existing bond is insufficient, and whenever such new bond is required he shall perform no official act until such bond shall be given and approved, as aforesaid. It shall be his duty to receive and keep all money belonging to the said town, and to pay out the same on warrants drawn by the town clerk and signed by the mayor, and not otherwise. Said treasurer shall render a full and correct itemized statement of all receipts and payments to the board of councilmen at their regular meeting in each month and at such other times as may be required by the said board, or the mayor. Said treasurer shall also keep a separate account of each fund, and shall credit each account with the funds received therefor, and charge each account with the amount legally paid out therefrom; and no money shall be paid out of any one fund for any object or purpose other than that for which the fund was created. The town treasurer shall perform such other duties as may be required of him by the board of councilmen.

"Sec. 4-6. *Same—reports.* The treasurer shall prepare, furnish and publish such reports from time to time as the board of councilmen may require.

"ARTICLE 5.

"Police Department.

"Sec. 5-1. *Establishment and operation.* The board of councilmen shall provide for the establishment, maintenance, and operation of a police department under such rules and regulations as the council may approve.

"Sec. 5-2. *Police jurisdiction.* All police and law enforcement officers of the Town of Edenton are hereby authorized to exercise the powers of arrest, to preserve the peace, and to serve criminal process at any point within 2000 yards of the corporate boundary lines of the Town of Edenton, and at such other places as may be specifically authorized by legislative act.

"Sec. 5-3. *Special policemen.* The mayor shall be a conservator of the peace throughout the town, and at all times shall have power to appoint such number of special policemen as he may in cases of emergency deem necessary to preserve the peace of the town, and to dismiss the same at pleasure; provided, such policemen shall not serve longer than the next meeting of the board of councilmen following their appointment unless confirmed by said board.

"ARTICLE 6.

"Fire Department.

"Sec. 6-1. *Establishment and operation.* The board of councilmen shall provide for the establishment, maintenance, and operation of a fire department under such rules and regulations as the council may approve.

"Sec. 6-2. *Authority to destroy structures.* During the continuance of any fire, the officer in command shall have authority to demolish or destroy any burning structures or other structures necessary to prevent the spread of fire. The officer in command shall also have authority to remove any contents of any structure to prevent their destruction or to prevent the spread of fire. The officer in command shall suffer no liability for the execution of such orders, nor shall any person executing such orders.

"ARTICLE 7.

"Finance and Taxation.

"Division 1. General Provisions.

"Sec. 7-1. *Taxes generally.* For the purpose of raising revenue for defraying expenses incident to the operation of the town, the board of councilmen may annually levy and collect any and all taxes, at the rate or rates and in the manner now or hereafter prescribed by State law.

"Sec. 7-2. *Sale or lease of utility systems.* The board of councilmen shall not sell or lease the town electric system, the town water system, the town sewerage system, or any other utility system which the town owns or may hereafter own, unless such sale or lease and the terms thereof be approved by a majority of the qualified voters who vote thereon in an election held not earlier than six months preceding such sale or lease; provided, this section shall not be deemed to prohibit the board of councilmen from selling or exchanging particular utility lines, or minor portions of any utility system, located outside the corporate limits, in its discretion and without approval of the voters.

"Sec. 7-3. *Fiscal procedures.* All elective and appointive officials having responsibilities pertaining to fiscal matters shall be governed by G.S. Chapter 159, G.S. Chapter 105, Subchapter II (The Machinery Act), and any other general laws dealing with fiscal affairs.

"Sec. 7-4. *Enforcement of privilege license taxes.* In addition to any other civil or criminal remedy available to enforce the collection of privilege license taxes, the tax collector may employ the remedies of levy upon personal property, attachment and garnishment, in the manner of and subject to the limitations provided in North Carolina General Statutes.

"Division 2. Street and Sidewalk Improvements.

"Sec. 7-5. *Authority to assess for improvements.* In addition to any authority which is now or may hereafter be granted by general law to the town for making street and sidewalk improvements, the town board is hereby authorized to make such improvements and to assess fifty percent of the total cost thereof against abuttting property owners in accordance with the provisions of this Chapter, without the necessity of a petition of property owners.

"Sec. 7-6. *Authority to order repairs, etc., and make assessment therefor.* In addition to any authority which is now or may hereafter be granted by general law to the town for making sidewalk improvements, the town council is hereby authorized to order to be made or to make sidewalk improvements or repairs according to standards and specifications of the town, and to assess fifty percent of the total cost thereof against abutting property owners, without the necessity of a petition of property owners.

"Sec. 7-7. *Assessment procedure.* In ordering street or sidewalk improvements or sidewalk repairs, without a petition and assessing fifty percent of the cost thereof under authority of this Chapter, the town council shall follow the procedure provided by the General Statutes relating to street and sidewalk assessments, except those provisions relating to the petition of property owners and the sufficiency thereof.

"Sec. 7-8. *Effect of assessment under division.* The effect of the act of levying assessments under authority of this Chapter shall for all purposes be the same as if the assessments were levied under authority of the General Statutes.

"Sec. 7-9. *Exemption of corner lots.* The board of councilmen shall have authority to exempt from assessment for street improvements for corner lots one hundred fifty feet of the frontage of any side of a corner lot when street improvements are installed along both sides of such lot.

"Division 3. Water and Sewer Assessments.

"Sec. 7-10. *Authority to levy by alternate methods.* In addition and as alternatives to the method provided in the General Statutes of North Carolina for assessing the costs of water and sewer lines and laterals, the board of councilmen of the Town of Edenton, North Carolina, if in its opinion it would be more equitable to do so, hereby is authorized in its discretion to levy any such assessments according to either of the following methods: (1) equally against each of the lots capable of being served by such line or lines, or (2) on the basis of the footage of land upon a public street by an equal rate per foot of such frontage.

In lieu of assessing the total cost of a particular project as herein provided, the governing body annually between the first days of January and July of each year, may determine the average cost of installing water and sewer mains or lines and on the basis of such determination may make assessments of such average cost of any portion thereof during the following fiscal year beginning July 1. The average cost of such installation shall include the cost of the particular size and material of lines completed during the preceding calendar year. It also may include the anticipated increase in labor and materials costs based upon the average of such increases during the preceding five calendar years. The assessment of the average cost of such line shall not be made until after the particular assessment project has been completed. The purpose of this division is to distribute more equitably the cost of the installation of water and sewer lines throughout the town; to permit a property owner to know in advance what the cost of installation of water and sewer lines benefiting his property will be; and to permit the most expeditious assessment of cost against property after completion of the installation of such lines. The actual cost of acquisition of rights-of-way also may be assessed as a part of the cost of an individual project. If the right-of-way costs have not been determined and assessed with the assessment of the average installation costs at the time of the completion of the project, such costs may be assessed separately when they are determined.

If a lot or parcel of land used for a single-family residential purpose is assessed under this section and the lot or parcel of land is subdivided into additional lots for single-family occupancy, the board of councilmen may assess the additional lots or parcels of land into which the original parcel of land is from time to time divided on the basis of the average cost as determined under the provisions of this section at the time the owner of the additional lot requests the utility service. Such assessment shall be made only after the owner of the newly created lot or lots has requested water or sewer service and an assessment against his

property or has paid the amount of the assessment in cash. In the absence of such request or payment, the service shall be withheld from the property.

If a lot or parcel of land is used for any purpose other than for single-family occupancy, the board of councilmen may assess the lot or parcel of land used for such other purpose in an amount equal to the multiple of the assessment for a single-family lot by the nearest number of times that the area so used is divisible by twenty thousand feet but in no case shall the assessment be less than the assessment which would be made against a single-family dwelling lot.

"Sec. 7-11. *Exemption of corner lots.* The board of councilmen shall have authority to exempt from assessment for water and sewer extensions for corner lots one hundred fifty feet of the frontage of any side of a corner lot when water and sewer extensions are installed along both sides of such lot.

"ARTICLE 8.

"Miscellaneous.

"Sec. 8-1. *Notice of injury before suit against town.* No action for damages against the Town of Edenton of any character whatever, to either person or property, shall be instituted unless within 90 days after the happening or infliction of the injury complained of, the complainant, his executors or administrators, shall have given notice to the board of councilmen of such injury in writing, stating in such notice the date and place of the happening or infliction of such injury, the manner of such injury, the character of such injury and the amount of damages claimed therefor, but this shall not prevent any time of limitation prescribed by law from commencing to run at the date of the happening or infliction of such injury, or in any manner interfere with its running.

"Sec. 8-2. *General laws apply.* All questions arising in the administration of the government of the Town of Edenton and not provided for in this charter, shall be governed by the laws of the State, and nothing in this charter shall be deemed as limiting any powers given to municipal corporations by the Constitution and Laws of North Carolina."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of June, 1975.

H. B. 445 CHAPTER 492

AN ACT TO AMEND ARTICLE 2A OF CHAPTER 45 TO PROVIDE NOTICE AND HEARING PRIOR TO MORTGAGE FORECLOSURE SALES.

The General Assembly of North Carolina enacts:

Section 1. Part 2 of Article 2A of Chapter 45 of the General Statutes is hereby amended by designating the present Section 45-21.16 as Section 45-21.16A and by amending Subsection (1) thereof to read as follows:

"(1) Describe the instrument pursuant to which the sale is held, by identifying the original mortgagors and recording data, and if different from the original mortgagors shall list the record owner of the property as reflected on the records of the register of deeds not more than 10 days prior to posting the notice, who may be identified as present owners, and may reflect the owner not reflected on the records if known."

And by amending Subsection (3) thereof to read as follows:

"(3) Describe the real property (including improvements thereon) to be sold in such a manner as is reasonably calculated to inform the public as to what is being sold, which description may be in general terms and incorporate the description as used in the instrument containing the power of sale by reference thereto. Any property described in the instrument containing the power of sale which is not being offered for sale should also be described in such a manner as to enable prospective purchasers to determine what is and what is not being offered for sale."

Sec. 2. Part 2 of Article 2A of Chapter 45 of the General Statutes is hereby amended by adding a new section to be designated 45-21.16 at the beginning thereof to read as follows:

"§ 45-21.16. *Notice and hearing.*—(a) The mortgagee or trustee granted a power of sale under a mortgage or deed of trust who seeks to exercise such power of sale shall serve upon each party entitled to notice under this section a notice of hearing. The notice shall specify a time and place for a hearing before the clerk of court and shall be served not less than 10 days prior to the date of such hearing. The notice shall be served in any manner provided by the Rules of Civil Procedure for the service of summons, or may be served by actual delivery by registered or certified mail, return receipt requested; provided, that in those instances in which service by publication would be authorized, service may be made by posting a notice in a conspicuous place and manner upon the property for a period of not less than 10 days before the date of the hearing.

(b) Notice of hearing shall be sent to:

(1) Any person to whom the security interest instrument itself directs notice to be sent in case of default.

(2) To any person obligated to repay the indebtedness against whom the holder thereof intends to assert liability therefor, and any such person not notified shall not be liable for any deficiency remaining after the sale.

(3) To the record owner or owners (including owners in tenancy by the entirety) of the real estate at the time of the giving of the notice.

(c) Notice shall be in writing and shall state in a manner reasonably calculated to make the party entitled to notice aware of the following:

(1) The particular real estate security interest being foreclosed, with such a description as is necessary to identify the real property, including the date, original amount, and book and page of the security instrument.

(2) The name and address of the holder of the security instrument, and if different from the original holder, his name and address.

(3) The nature of the default claimed.

(4) The fact, if such be the case, that the secured creditor has accelerated the maturity of the debt.

(5) Any right of the debtor to pay the indebtedness or cure the default if such is permitted, the date by which such payment may be made or cure effected, the amount to pay or steps necessary to cure by such date, and to whom payment should be made or notice of cure given.

(6) The date, time and place when and where the real estate will be sold, unless the obligation is earlier satisfied.

(7) The right of the debtor (or other party served) to appear before the Clerk of Court at a time and on a date specified, at which appearance he shall be afforded the opportunity to show cause as to why the foreclosure

should not be allowed to be held. The notice shall contain a statement that if the debtor does not intend to contest the creditor's allegations of default, that the debtor does not have to appear at the hearing and that his failure to attend the hearing will not affect his right to pay the indebtedness and thereby prevent the proposed sale, or to attend the actual sale, should he elect to do so.

(8) That if the foreclosure sale is consummated the purchaser will be entitled to possession of the real estate as of the date of delivery of his deed, and that the debtor, if still in possession, can then be evicted.

(9) That the debtor should keep the trustee or mortgagee notified in writing of his address so that he can be mailed copies of the notice of foreclosure setting forth the terms under which the sale will be held, and notice of any postponements or resales.

(d) The hearing provided by this section shall be held before the clerk of court in the county where the land, or any portion thereof, is situated. Upon such hearing, the clerk shall consider the evidence of the parties and may consider in addition to other forms of evidence required or permitted by law, affidavits and certified copies of documents. If the clerk finds the existence of (1) valid debt of which the party seeking to foreclose is the holder, (2) default, (3) right to foreclose under the instrument, and (4) notice to those entitled to such under subsection (b), then the clerk shall further find that the mortgagee or trustee can proceed under the instrument, and the mortgagee or trustee can give notice of and conduct a sale pursuant to the provisions of this Article. The act of the clerk in so finding or refusing to so find is a judicial act and may be appealed to the judge of the district or superior court having jurisdiction at any time within 10 days after said act. If an appeal is taken from the clerk's findings, the clerk shall stay the foreclosure pending appeal, providing that the clerk shall as a condition of staying the foreclosure require that the appealing party post a bond with sufficient surety to protect the prevailing party from any probable loss by reason of delay in the foreclosure.

(e) In the event of an appeal, either party may demand that the matter be heard at the next succeeding term of the court to which the appeal is taken which convenes ten or more days after the hearing before the clerk, and such hearing shall take precedence over the trial of other cases except cases of exceptions to homesteads and appeals in summary ejectment actions, provided the presiding judge may in his discretion postpone such hearing if the rights of the parties or the public in any other pending case require that such case be heard first. In those counties where no term of court is scheduled within 30 days from the date of hearing before the clerk, either party may petition the resident superior court judge or chief district court judge, who shall be authorized to hear the appeal.

(f) Waiver of the right to notice and hearing provided herein shall not be permitted except as set forth herein. At any time subsequent to service of the notice of hearing provided above, the clerk, upon the request of the mortgagee or trustee, shall mail to all other parties entitled to notice of such hearing a form by which such parties may waive their rights to the hearing. Upon the return of the forms to the clerk bearing the signatures of each such party and that of a witness to each such party's signature (which witness shall not be an agent or employee of the mortgagee or trustee), the clerk in his discretion may dispense

with the necessity of a hearing and proceed to issue the order authorizing sale as set forth above."

Sec. 3. G.S. 45-21.17 is hereby amended to read as follows:

"§ 45-21.17. *Posting and publishing notice of sale of real property.*—In addition to complying with such provisions with respect to posting or publishing notice of sale as are contained in the security instrument,

(a) Notice of sale of real property shall

(1) Be posted, at the courthouse door in the county in which the property is situated, for 20 days immediately preceding the sale.

(2) And in addition thereto,

a. If a newspaper qualified for legal advertising is published in the county, the notice shall be published in such a newspaper once a week for at least two successive weeks; but

b. If no such newspaper is published in the county, then notice shall be published once a week for at least two successive weeks in a newspaper having a general circulation in the county.

c. In addition to the newspaper advertisement under (a) or (b) above, the clerk may in his discretion, on application of any interested party, authorize such additional advertisement as in the opinion of the clerk will serve the interest of the parties, and permit the charges for such further advertisement to be taxed as a part of the costs of the foreclosure.

(b) When the notice of sale is published in a newspaper,

(1) The period from the date of the first publication to the date of the last publication, both dates inclusive, shall not be less than seven days, including Sundays, and

(2) The date of the last publication shall be not more than ten days preceding the date of the sale.

(c) When the real property to be sold is situated in more than one county, the provisions of Subsections (a) and (b) shall be complied with in each county in which any part of the property is situated.

(d) The notice of sale shall be mailed at least 20 days prior to the date of sale to each party entitled to notice of the hearing provided by G.S. 45-21.16 whose address is known to the trustee or mortgagee and in addition shall also be mailed to any party desiring a copy of the notice of sale who has complied with Subsection (e) below. Notice of the hearing required by G.S. 45-21.16 shall be sufficient to satisfy the requirement of notice under this section provided such notice contains the information required by G.S. 45-21.16A.

(e)(1) Requests for copies of notice. Any person desiring a copy of any notice of default and sale under any security instrument with power of sale upon real property may, at any time subsequent to the recordation of the security instrument and prior to the giving of notice of hearing provided for in G.S. 45-21.16, cause to be filed for record in the office of the register of deeds of the county where all or any part of the real property is situated, a duly acknowledged request for a copy of such notice of sale. This request shall be signed and acknowledged by the party making the request, shall specify the name and address of the party to whom the notice is to be mailed, shall identify the deed of trust or mortgage by stating the names of the parties thereto, the

date of recordation, and the book and page where the same is recorded, and shall be in substantially the following form:

'In accordance with the provisions of G.S. 45-21.17(e) request is hereby made that a copy of any notice of sale under the deed of trust (mortgage) recorded on _____, 19__, in Book _____, page _____, records of _____ County, North Carolina, executed by _____ as trustor (mortgagor) in which _____ is named as beneficiary (mortgagee), and _____ as trustee, be mailed to _____ at the following address: _____.

Signature: _____.'

(2) Register of deeds' duties. Upon the filing for record of such request, the register of deeds shall index in the general index of grantors the names of the trustors (mortgagors) recited therein, and the names of the persons requesting copies, with a marginal entry in the index of the book and page of the recorded security instrument to which the request refers; or upon the filing for record of such request, the register of deeds may instead of indexing such request on the general index of grantors stamp upon the face of the security instrument referred to in the request the book and page of each request for notice thereunder.

(3) Mailing notice. The mortgagee, trustee, or other person authorized to conduct the sale shall at least 20 days prior to the date of the sale cause to be deposited in the United States mail an envelope with postage prepaid containing a copy of the notice of sale, addressed to each person whose name and address are set forth in a duly recorded request therefor as specified in (1) above, directed to the address designated in such request.

(4) Effect of request on title. No request for a copy of any notice filed pursuant to this section nor any statement or allegation in any such request nor any record thereof shall affect the title to real property, or be deemed notice to any person that the person requesting copies of notice has any claim or any right, title or interest in, or lien or charge upon the property described in the deed of trust or mortgage referred to therein.

(5) Evidence of compliance and actions for failure to comply. The affidavit of the mortgagee, trustee, or other person authorized to conduct the sale that copies of the notice of sale have been mailed to all parties filing request for the same hereunder shall be deemed *prima facie* true. As to parties entitled to notice of foreclosure sale by virtue of G.S. 45-21.17(e)(1), no such party shall be permitted to attack a foreclosure on grounds that he was not mailed the notice herein provided for unless such action be brought prior to confirmation of the sale if the property is purchased by someone other than the secured party, and if bought by the secured party, unless the action is brought within six months of the date of confirmation of the sale and prior to the time the secured party sells the property to a bona fide purchaser for value. As to parties entitled to notice of foreclosure sale by virtue of G.S. 45-21.17(e)(1), no action may be brought either attacking the foreclosure or seeking damages resulting therefrom unless brought within six months of the date of confirmation of the sale, and in no case may be brought unless the party bringing the same tenders the full amount of the secured partys' investment in the property (including costs and expenses in the foreclosure action and all

accrued interest), and if on hearing it is proven that the party bringing the action received mailed notice or had actual notice of the sale before it was held (or if a resale was involved, prior to the date of the last resale), then he shall not prevail and shall be charged with such costs and expenses as are incurred in defending such action, including reasonable attorneys' fees of the defending party to be assessed by the court."

Sec. 4. Subsection (a) of G.S. 45-21.21 is hereby amended by deleting the word "six" and inserting in lieu thereof the word "twenty".

Sec. 5. Subsection (b) of G.S. 45-21.21 is hereby amended by adding a new subdivision (3) to read as follows:

"(3) Give written or oral notice of postponement to each party entitled to notice of sale under G.S. 45-21.17."

Sec. 6. Subsection (d) of G.S. 45-21.21 is hereby amended to read as follows:

"(d) If a sale is not held at the time fixed therefor and is not postponed as provided by this section, or if a postponed sale is not held at the time fixed therefor or within 30 days of the date originally fixed for the sale, then prior to such sale taking place the provisions of G.S. 45-21.16, G.S. 45-21.16A, and G.S. 45-21.17 shall be again complied with except that if on appeal from findings of the clerk pursuant to G.S. 45-21.16(d) and (e) the appellate court authorizes the sale to be held, as to such sale so authorized the provisions of G. S. 45-21.16 need not be complied with again but those of G.S. 45-21.16A and 45-21.17 shall be."

Sec. 7. Sub-subdivision b. of Subdivision (2) of Subsection (b) of G.S. 45-21.29 is hereby amended to read as follows:

"b. If no such newspaper is published in the county, then notice shall be published once a week for at least two successive weeks in a newspaper having a general circulation in the county."

Sec. 8. Subsection (b) of G.S. 45-21.29 is hereby amended by adding a new subdivision (3) to read as follows:

"(3) Notice of resale shall be mailed to each party entitled to notice of sale pursuant to G.S. 45-21.17."

Sec. 9. Subsection (k) of G.S. 45-21.29 as the same appears in the 1974 Cumulative Supplement is hereby amended by renumbering subdivisions (2) through (6) as subdivisions (3) through (7) and adding a new subdivision (2) to read as follows:

"(2) The provisions of this Article have been complied with, and".

Sec. 10. Subsection (a) of G.S. 45-21.30 is hereby amended by deleting the words "or personal".

Sec. 11. Subsection (c) of G.S. 45-21.33 is hereby amended by adding a new subdivision (3) to read as follows:

"(3) Proof as required by the clerk, which may be by affidavit, that notices of hearing, sale and resale were served upon all parties entitled thereto under G.S. 45-21.16, G.S. 45-21.17 and G.S. 45-21.29."

Sec. 12. Chapter 45 of the General Statutes is hereby amended by adding a new section G.S. 45-21.45 to read as follows:

"§ 45-21.45. *Validation of foreclosure sales where notice and hearing not provided.*—In all cases where mortgages or deeds of trust on real estate with power of sale have been foreclosed pursuant to said power by proper advertisement and sale, but the mortgagor or grantor under such mortgage or deed of trust did not receive actual notice of such foreclosure or have the

opportunity of a hearing prior to such foreclosure, all such sales are hereby fully validated, ratified and confirmed and shall be as effective to pass title to the real estate described therein as fully and to the same extent as if such notice and opportunity for hearing had been given, unless an action to set aside such foreclosure is commenced within one year from the date of ratification of this act."

Sec. 13. The provisions of this act, except for Section 12, shall not apply to foreclosures which were commenced prior to the ratification hereof, but shall apply only to those as to which no notice of sale had been posted prior to such ratification.

Sec. 14. The words clerk of court as used in this act shall be deemed to include assistant clerk of court.

Sec. 15. Subsection (b) of G.S. 45-21.9 is hereby amended by deleting the last sentence thereof and by inserting in lieu thereof the following:

"As to any such sale, it shall not be necessary to comply with the provisions of G.S. 45-21.16 but the requirements of G.S. 45-21.17 relating to notices of sale shall be complied with."

Sec. 16. This act shall not affect pending litigation.

Sec. 17. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of June, 1975.

S. B. 293 CHAPTER 493

AN ACT TO REWRITE G.S. 14-139 PERTAINING TO STARTING FIRES IN OR CAPABLE OF SPREADING TO WOODLAND UNDER PROTECTION OF THE DEPARTMENT OF NATURAL AND ECONOMIC RESOURCES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-139, as the same appears in the 1974 Cumulative Supplement to Volume 1B of the General Statutes, is rewritten in its entirety to read as follows:

"(a) Statement of purpose. It is the intent and purpose of this section to enact fire control provisions that are adopted to the needs and circumstances of the respective areas of North Carolina. The General Assembly hereby finds that, in certain counties designated in subsection (b) of this section and which have organic soils associated with large expanses of forests with highly flammable fuel types, forest fires are likely to result from the unusual hazard which exists during land clearance operations, and the General Assembly hereby classifies said counties as subject to the provisions of subsection (b). The General Assembly further finds that, in the remaining counties designated in subsection (c) of this section, forest fires are not as likely to result from unusual hazards that exist during land clearance operations, and the General Assembly hereby classifies said counties as subject to the provisions of subsection (c).

(b) It shall be unlawful for any person, firm or corporation to willfully start, or cause to be started, any fire, in any of the areas of woodlands under the protection of the Department of Natural and Economic Resources or within 500 feet of any such protected area without first having obtained from the Secretary of the Department of Natural and Economic Resources, or his duly authorized

agent, a permit to start and burn such fire in the above mentioned protected areas.

It shall be unlawful for any person, firm or corporation to willfully burn any debris, stumps, brush or other inflammable material accumulated as a result of ground clearance activities without having first received a special burning permit from the Secretary of the Department of Natural and Economic Resources, or his duly authorized agent, and such special permit shall be granted by the secretary or his duly authorized agent, only if he has personally inspected the site of the proposed burning, and has assessed the conditions which might endanger protected woodlands as a result of such burning. The secretary, or his duly authorized agent, shall be empowered to prohibit all brush burning and burning of other debris capable of spreading fire to protected woodlands regardless of the distance such burning operation may be from the said woodlands, when it is determined that hazardous fire conditions exist.

If a fire is discovered burning in any area subject to this subsection under any conditions which are considered by the Secretary of the Department of Natural and Economic Resources, or his duly authorized agent, to be hazardous to the protected forest in the vicinity, the secretary, or any duly authorized agent, is hereby empowered to enter upon the lands where such burning is occurring and, at their option, to extinguish such fires constituting a danger to adjoining woodlands.

The provisions of this subsection shall apply only to the counties of Dare, Hyde, Tyrrell and Washington.

(c) It shall be unlawful for any person, firm or corporation to start or cause to be started any fire or ignite any material in any of the areas of woodland under the protection of the Department of Natural and Economic Resources or within 500 feet of any such protected area, during the hours starting at midnight and ending at 4:00 p.m. without first obtaining from the Secretary of the Department of Natural and Economic Resources, or his duly authorized agent, a permit to start or cause to be started any fire or ignite any material in such above mentioned protected areas.

The provisions of this subsection shall not apply to the counties of Dare, Hyde, Tyrrell and Washington.

(d) During periods of hazardous forest fire conditions or during air pollution episodes declared by competent authority pursuant to Article 21B of Chapter 143 of the General Statutes of North Carolina, the Secretary of the Department of Natural and Economic Resources is authorized to cancel all permits and special burning permits covered by this section and to prohibit all brush pile burning, the burning of other debris and the starting of any fires in any of the woodlands under the protection of the Department of Natural and Economic Resources or capable of spreading to any such protected area, without regard to the distance from such fires to such woodlands.

The secretary, or his duly authorized agent, may refuse to issue a permit when the burning to be conducted under this section is in violation of rules and regulations governing the control of air pollution adopted by competent authority under Article 21B of Chapter 143 of the General Statutes of North Carolina. If a fire is discovered burning in any area subject to this section under any conditions which are considered by the Secretary of the Department of Natural and Economic Resources, or his duly authorized agent, to be in violation of rules and regulations governing the control of air pollution adopted

by competent authority under Article 21B of Chapter 143 of the General Statutes of North Carolina, the secretary, or any duly authorized agent, is hereby empowered to enter upon the lands where such burning is occurring and, at their option, to extinguish such fires which are in violation of said rules and regulations.

This section shall not apply to any fires started, or caused to be started, within 100 feet of an occupied dwelling house, if such fire shall be confined within an enclosure from which burning material may not escape, or within a protected area upon which a watch is being maintained and which is provided with adequate fire protection equipment.

No charge shall be made for the granting of any permit or special burning permit required by this section.

(e) Any person, firm or corporation violating any of the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be fined not more than fifty dollars ($50.00) or imprisoned for a period of not more than 30 days, or both, in the discretion of the court. The penalties imposed by this section shall be separate and apart and not in lieu of any civil or criminal penalties which may be imposed by Section 143-215.114 of Article 21B of Chapter 143 of the General Statutes. Compliance with this section does not relieve permittee from the need to comply with rules and regulations adopted pursuant to Article 21B of Chapter 143 of the General Statutes of North Carolina."

Sec. 2. Chapter 617 of the 1963 Session Laws (which relates to forest fire control and burning permits in Dare, Hyde, Tyrrell and Washington Counties) is hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of June, 1975.

S. B. 492 CHAPTER 494

AN ACT TO AMEND G.S. 156-81(g) TO RAISE THE PER DIEM FOR MEMBERS OF THE BOARD OF DRAINAGE COMMISSIONERS TO TWENTY-FIVE DOLLARS ($25.00).

The General Assembly of North Carolina enacts:

Section 1. G.S. 156-81(g) is hereby amended on line 6 by deleting the words and figures "twelve dollars ($12.00)" and inserting in lieu thereof the words and figures "twenty-five dollars ($25.00)".

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 9th day of June, 1975.

S. B. 602 **CHAPTER 495**

AN ACT TO AMEND G.S. 52-8 RELATING TO THE VALIDATION OF CONTRACTS BETWEEN HUSBAND AND WIFE WHERE WIFE IS NOT PRIVATELY EXAMINED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 52-8 is hereby amended in the 1974 Cumulative Supplement to Volume 2A of the General Statutes by striking the words and figures "December 31, 1972" and inserting in lieu thereof the words and figures "December 31, 1974".

Sec. 2. This act shall not affect litigation pending on the effective date hereof, nor be construed to validate any contract which is the subject of litigation pending on the effective date hereof.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of June, 1975.

S. B. 801 **CHAPTER 496**

AN ACT TO AMEND THE AUTHORITY OF CLERKS OF SUPERIOR COURT TO INVEST FUNDS IN THE HANDS OF THE CLERK.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-112(a)(4) as the same appears in the 1974 Cumulative Supplement to Volume 1B of the North Carolina General Statutes is hereby amended by inserting after the word "thereof" and before the period in line 7 the following language: "or by any mutual deposit guaranty association authorized by the administrator of the savings and loan division of North Carolina to do business in North Carolina pursuant to Article 7A of Chapter 54 of the General Statutes."

Sec. 2. G.S. 7A-112(a)(4) as the same appears in the 1974 Cumulative Supplement to Volume 1B of the North Carolina General Statutes is hereby amended by inserting after the word "thereof" in line 10 and before the comma the following language: "or by any mutual deposit guaranty association authorized by the administrator of the savings and loan division of North Carolina to do business in North Carolina pursuant to Article 7A of Chapter 54 of the General Statutes."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of June, 1975.

S. B. 819

CHAPTER 497

AN ACT REWRITING SECTION 3 OF CHAPTER 695, SESSION LAWS OF 1971, REVISING THE LEGAL DESCRIPTION OF THE CORPORATE LIMITS OF THE TOWN OF ST. PAULS TO INCORPORATE RECENT ANNEXATIONS THERETO.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of the Charter of the Town of St. Pauls, enacted by Section 1 of Chapter 695 of the 1971 Session Laws, is rewritten to read as follows:

"Sec. 3. *Corporate limits.* The corporate limits of the Town of St. Pauls shall be as follows:

BEGINNING at a stake in a small branch, D. A. McGougan and L. A. McGeachy's corner, said stake being located 1 chain and 50 links due South of the West end of a small dam on said branch, said Beginning corner also being located South 40 degrees East 54 chains from the intersection of the North line of Broad Street with the centerline of the main line of the Virginia and Carolina Southern Railroad and running thence as the McGougan-McGeachy line North 2 degrees East 3399 feet to a 1/2 inch iron pipe in concrete at the edge of a large pocosin; thence North 80 degrees West 2267.25 feet to a railroad spike in the eastern edge of Railroad Street and in the western right-of-way (50 feet from center) of the Virginia and Carolina Southern Railroad; thence along said right-of-way North 21 degrees 30 minutes East 540.74 feet to a concrete monument in said right-of-way; thence North 80 degrees West 1607.02 feet to a concrete monument in the western right-of-way (50 feet from center) of U.S. Highway 301, 5th Street Extended; thence as said right-of-way North 10 degrees 02 minutes East 1035 feet to a concrete monument in said right-of-way; thence North 81 degrees 33 minutes West 442.30 feet to a concrete monument in the line of a ditch, 4 feet North of and West of the School Fence; thence South 8 degrees 43 minutes West 606.00 feet to a concrete monument in the line of another ditch, 4 feet West of the School Fence; thence North 79 degrees 40 minutes West 454.85 feet to a concrete monument in the western right-of-way (30 feet from center) of the Old Stage Road; thence along said right-of-way North 6 degrees 35 minutes East 959.79 feet to a concrete monument in said right-of-way, the Southeastern corner of the N. C. National Guard Armory Lot and in the North line of Pool Street (25 feet from center) thence along and beyond the North line of Pool Street, crossing Wilkinson Drive North 82 degrees 58 minutes West 678.21 feet to a stake in the western right-of-way (30 feet from center) of Wilkinson Drive; thence North 83 degrees 43 minutes West 147.50 feet to a stake in a field; thence South 6 degrees 35 minutes West, parallel to Wilkinson Drive 969.51 feet to a stake in the North line of the Pete Ivey Residence Lot; thence along said line and beyond North 83 degrees 43 minutes West 197.50 feet to a stake in the West right-of-way (25 feet from center) of Bellevue Street; thence along said right-of-way South 6 degrees 35 minutes West 150.00 to a stake in the right-of-way of said Street, at its intersection with the North right-of-way (20 feet from center) of Britt Street; thence South 7 degrees 49 minutes West 675.19 feet to a stake in the North line of Shaw Street (25 feet from center); thence along the North line of said Street North 83 degrees 43 minutes West 400.91 feet to a stake in the north line of said street, at its intersection with the Eastern right-of-way (30 feet from

center) of Sanford Street; thence along the Eastern right-of-way of Sanford Street North 6 degrees 58 minutes East 635.00 feet to a stake in said right-of-way; thence North 83 degrees 43 minutes West 589.30 feet to a new 1 inch iron pipe in the Eastern right-of-way (88 feet from center) of a ramp leading off of N. C. Highway 20 onto Interstate 95; thence along said right-of-way South 2 degrees 45 minutes East 179.73 feet to an existing concrete R/W monument, the P. T. of a curve in said right-of-way; thence along said curved right-of-way, the chord being South 8 degrees 36 minutes West 315.35 feet to a concrete monument in said curved right-of-way; thence continuing along said curved right-of-way, the chord being South 20 degrees 41 minutes West 12.77 feet to an existing concrete R/W monument, the P. C. of said curve; thence continuing along said right-of-way South 20 degrees 43 minutes West 330.39 feet to an existing concrete R/W monument; thence continuing along said right-of-way South 13 degrees 46 minutes East 216.30 feet to a concrete monument in the north right-of-way (70 feet from center) of N. C. Highway 20; thence along said right-of-way South 47 degrees 58 minutes East 356.59 feet to a concrete monument in said right-of-way, at its intersection with the Southeastern right-of-way (25 feet from center) of Sanford Street; thence along the Southeastern right-of-way of said street South 42 degrees 02 minutes West 40.00 feet to a concrete monument in said right-of-way, in the northeastern right-of-way (30 feet from center) of N. C. Highway 20; thence along said right-of-way South 47 degrees 58 minutes East 295.68 feet to a concrete monument in said right-of-way, the P. C. of a curve in said Highway; thence continuing along said curved right-of-way, the chord being South 48 degrees 26 minutes East 131.40 feet to a concrete monument in said right-of-way, at its intersection with the original western Corporate Limit line of the Town of St. Pauls; thence along said line South 10 degrees 00 minutes West 1002.58 feet to a concrete monument in a field west of Cumbo Branch; thence South 80 degrees 00 minutes East 2640.00 feet to a nail on the porch of the Dr. L. J. Moore residence; thence due South passing through a concrete monument in the South line of Sylvia Street at 2156.44 feet, continuing a total distance of 2256.44 feet to a stake at Highwater Mark on the North side of the Great Marsh Swamp; thence down the various courses of said Highwater Mark to and up the first mentioned small branch in an eastern direction to the Beginning."

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 9th day of June, 1975.

H. B. 671 CHAPTER 498

AN ACT TO AMEND G.S. 160A-241 RELATING TO THE INSTALLATION AND CONSTRUCTION OF WATER AND SEWERAGE FACILITIES OUTSIDE THE CORPORATE BOUNDARIES OF CITIES AND TOWNS, AND PROVIDING FOR RECOVERY OF COST THEREOF.

The General Assembly of North Carolina enacts:

Section 1. That G. S. 160A-241 of the General Statutes of North Carolina be and it hereby is amended by inserting the following language immediately after the second sentence of said section to read as follows:

"The governing body of the Town of Southern Pines shall have the right and power to acquire such rights-of-way, easements, and other property outside its corporate boundaries in the exercise of the power of eminent domain in the same way and under the same authority and procedures as it has the power to acquire such rights-of-way, easements, and property inside the corporate boundaries of such town, provided further that nothing herein shall be construed to enlarge the power of the Town of Southern Pines to condemn property already devoted to public use, and provided further that each exercise of rights and powers regarding rights-of-way, easements, and property outside the corporate limits of Southern Pines requires the concurrence of the Moore County Board of Commissioners. Such governing body shall also have the power and authority, in the extension, installation, construction, operation and maintenance of its water and sewerage facilities outside of its corporate boundaries, to create water and/or sewer benefit assessment districts and to specially assess the cost of such water or sewer installations or construction to the property in such benefit assessment districts on the basis of the front foot rule, the benefits derived or to be derived by the property in such assessment districts, or some other equitable method promulgated and established by the governing body in the exercise of its sound legislative discretion."

Sec. 2. All laws and clauses of laws in conflict herewith are hereby repealed.

Sec. 3. This act shall apply only to the Town of Southern Pines and is supplementary to all other powers and authority possessed by the Town of Southern Pines and is not in substitution thereof.

Sec. 4. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 9th day of June, 1975.

H. B. 723 CHAPTER 499

AN ACT TO PERMIT WILSON COUNTY TO LEASE CERTAIN LANDS FOR A LONGER TERM THAN TEN YEARS IN ORDER TO PROVIDE A REST HOME AND/OR NURSING CARE FACILITY.

The General Assembly of North Carolina enacts:

Section 1. The Board of Commissioners of Wilson County shall have the authority to lease any land which Wilson County now owns or may hereafter acquire to such person, firm or corporation as the commissioners may select to erect and operate a rest home and/or nursing care facility thereupon.

No public notice need be given for any resolution authorizing a lease or rental for the purposes herein set forth.

Sec. 2. Any lease entered into by the Board of Commissioners of Wilson County for such purpose may be made upon such terms and conditions as the commissioners shall determine but not for longer then 50 years including options and renewals.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of June, 1975.

H. B. 899 **CHAPTER 500**

AN ACT RELATING TO THE SALE OF CERTAIN PROPERTY BY THE CITY OF BURLINGTON.

The General Assembly of North Carolina enacts:

Section 1. The City Council of the City of Burlington is hereby granted the power to sell and convey the tract of real property described below in this section at a private sale for such consideration and upon such terms as in the judgment of the City Council of the City of Burlington shall be in the best interest of the citizens of the City of Burlington. The said City Council of the City of Burlington is further authorized and empowered, in its discretion, to cause said property to be conveyed with full covenants of warranty:

A certain tract or parcel of land in Burlington Township, Alamance County, North Carolina, adjoining the lands of North Carolina Railroad Company, City of Burlington, Front Street United Methodist Church, West Webb Avenue, and others and being more particularly described as follows:

BEGINNING at an iron stake in the western right-of-way line of West Webb Avenue, corner with Front Street United Methodist Church and in the line of the North Carolina Railroad property, and running thence with the line of the said Railroad Company, crossing West Webb Avenue, South 32° 01' East 84.25 feet to a steel spike driven in the pavement of the said Avenue; thence still with the line of North Carolina Railroad Company, and still crossing West Webb Avenue, South 32° 57' East 70.22 feet to an iron stake, corner with City of Burlington property; thence with the line of the City of Burlington property, and recrossing West Webb Avenue, South 53° 24' 30" West 97.83 feet to an iron stake, corner with Front Street United Methodist Church; thence with the said Church the following courses and distances: North 3° 54' 21" West 83.29 feet to an iron stake; North 53° 25' East 3.74 feet to an iron stake in the western right-of-way line of West Webb Avenue; thence with the line of West Webb Avenue, and the line of the Front Street United Methodist Church, the following courses and distances: North 1° 02' 31" East 3.60 feet to an iron stake; North 1° 14' 43" East 39.83 feet to an iron stake at the point of curvature in the right-of-way of West Webb Avenue; thence still with Front Street United Methodist Church and along the western right-of-way line of West Webb Avenue, as it curves to the left, an arc distance of 60.13 feet (Chord Bearing and Distance is North 2° 32' West 60.12 feet) to the point and place of the BEGINNING, and containing 7,530 square feet.

The above described property shall be conveyed subject to the right-of-way of West Webb Avenue.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of June, 1975.

H. B. 1072 **CHAPTER 501**

AN ACT TO PROVIDE FOR THE ELECTION OF THE MEMBERS OF THE CHATHAM COUNTY BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. The Board of Education of Chatham County shall consist of five members who shall be qualified voters of the county, and who shall be elected as hereinafter provided for staggered terms of four years.

Sec. 2. For the purpose of electing members of the board of education, the county is hereby divided into four resident districts as follows:

District Number One shall consist of all the territory within the boundaries of the townships of Baldwin, Williams, New Hope and Cape Fear.

District Number Two shall consist of all the territory within the boundaries of the townships of Center, Hadley and Albright.

District Number Three shall consist of all the territory within the boundaries of the townships of Haw River, Oakland, Gulf and Hickory Mountain.

District Number Four shall consist of all the territory within the boundaries of the townships of Mathews and Bear Creek.

Sec. 3. The election shall be nonpartisan, and no primary election shall be held. The election shall be held at the same time as the regular primary for county officers, and except as provided in this act, the election shall be conducted in accordance with the applicable provisions of Chapter 163 of the General Statutes regulating general elections.

Sec. 4. Beginning in 1976, and thereafter as the terms expire, one member shall be elected from Districts No. 1 and 2 for terms of four years.

In 1978, and thereafter as the terms expire, one member shall be elected from District No. 3, and two members from District No. 4.

Sec. 5. Candidates must reside in the district which they seek to represent, but shall be voted on by the voters of the entire county. The candidates in each district receiving the highest number of votes, equal to the number of positions to be filled in the district, shall be declared elected.

Sec. 6. The provisions of G.S. 115-24 shall be applicable to the members of the Chatham County Board of Education. The persons elected shall qualify by taking the oath of office 30 days after the election.

Sec. 7. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of June, 1975.

H. B. 1106 **CHAPTER 502**

AN ACT TO REPEAL CHAPTER 476 OF THE 1969 SESSION LAWS AND TO SUBSTITUTE IN LIEU THEREOF A NEW ACT PROVIDING FOR THE ELECTION OF THE CHEROKEE COUNTY BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. Chapter 476 of the 1969 Session Laws is hereby repealed in its entirety.

Sec. 2. The Board of Education of Cherokee County shall consist of seven members, all of whom shall be elected by the voters of the entire county. There shall be no primary election.

Sec. 3. For the purpose of electing members of the Cherokee County Board of Education, the county is hereby divided into three resident districts, to be numbered and designated as follows:

District No. 1 shall be the Andrews High School District

District No. 2 shall be the Murphy High School District

District No. 3 shall be the Hiwassee Dam High School District.

Sec. 4. In the year of 1976, there shall be elected, as hereinafter provided, two members of the county board of education from District No. 1 and one member from District No. 2, all of whom shall be residents of the district which they are elected to represent.

Sec. 5. In the year of 1978, there shall be elected, as hereinafter provided, one member of the county board of education from District No. 2, and one member from the county at large. The member from District No. 2 shall be a resident of the district which he is elected to represent. The member at large shall not be required to reside in or represent any one particular district.

Sec. 6. In the year of 1980, there shall be elected, as hereinafter provided, two members of the county board of education from District No. 3, which members shall be residents of the district which they are elected to represent.

Sec. 7. All members of the Cherokee County Board of Education elected under the provisions of this act shall serve for terms of six years each and until their successors are elected and qualified. As the term of each member expires, his successor shall be elected for a term of six years.

Sec. 8. Each candidate shall file his notice of candidacy, without reference to any political party affiliation, with the chairman of the Cherokee County Board of Elections on or before the Friday preceding the sixth Saturday before the date of the primary for the nomination of county officers, and the filing of said notice shall be accompanied by a filing fee of five dollars ($5.00) to be paid to the county board of elections. There shall be provided a separate ballot by the Cherokee County Board of Elections with the names of the candidates printed thereon with instructions for use in the general election in which the members of said board of education shall be elected, and no political party affiliation shall be shown on the ballot. The number of candidates, equal to the number of offices to be filled in each district, receiving the highest number of votes shall be declared elected. The members so elected shall be inducted into office on the first Monday in December following their election.

Sec. 9. At the first meeting of the county board of education after the general election of 1976, the said board shall elect a chairman from its members. The chairman shall have a right to vote on any matter before the board of education for action and consideration, but the said chairman shall not have the right to vote twice in case of a tie vote. The said board shall have a right to elect all other proper officers and to determine its own methods of internal procedure.

Sec. 10. All vacancies occurring in the membership of the Board of Education of Cherokee County by death, resignation, removal from office, or change of residence, otherwise, shall be filled within 20 days of such vacancy by the remaining members of said board of education and for the unexpired term.

Sec. 11. All elections for the members of the Board of Education of Cherokee County shall be held under the laws and regulations governing elections for county offices as provided by Chapter 163 of the General Statutes as amended.

Sec. 12. All laws and clauses of laws, in addition to Chapter 476 of the Session Laws of 1969, in conflict with the provisions of this act are hereby repealed.

Sec. 13. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of June, 1975.

H. B. 1134 CHAPTER 503

AN ACT TO PROVIDE FOR THE ELECTION OF THE CHATHAM COUNTY BOARD OF COMMISSIONERS.

The General Assembly of North Carolina enacts:

Section 1. The Board of Commissioners of Chatham County shall consist of five members who shall be qualified voters of the county, and who shall be elected as hereinafter provided for staggered terms of four years.

Sec. 2. For the purpose of electing members of the board of commissioners, the county is hereby divided into four resident districts as follows:

District Number One shall consist of all the territory within the boundaries of the townships of Baldwin, Williams, New Hope and Cape Fear, and shall have one member on the board of commissioners.

District Number Two shall consist of all the territory within the boundaries of the townships of Center, Hadley and Albright, and shall have one member on the board of commissioners.

District Number Three shall consist of all the territory within the boundaries of the townships of Haw River, Oakland, Gulf and Hickory Mountain, and shall have one member on the board of commissioners.

District Number Four shall consist of all the territory within the boundaries of the townships of Mathews and Bear Creek, and shall have two members on the board of commissioners.

Sec. 3. Beginning with the regular primary and general election to be held for county officers in 1976, and every four years thereafter, two members shall be nominated and elected, one each from Districts Number One and Three.

In the primary and general election to be held in 1978, and every four years thereafter, three members shall be elected, one from District Number Two and two from District Number Four.

Sec. 4. Candidates must reside in the district which they seek to represent, but shall be voted on by the voters of the entire county in both the primary and general election. At the time of filing notice of candidacy the candidate shall indicate the district in which he resides, and the ballots in the primary and general election shall indicate the district for which each candidate seeks nomination and election.

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of June, 1975.

H. B. 1152 **CHAPTER 504**

AN ACT TO AMEND THE ELIGIBILITY REQUIREMENTS FOR THE RALEIGH FIREMEN RETIREMENT FUND.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 421 of the 1969 Session Laws is hereby amended by striking therefrom the word "previously" appearing on line 2 thereof and by striking therefrom the words "and was retired subsequent to attaining the age of fifty-five (55) years" appearing on line 3 thereof.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of June, 1975.

H. B. 1165 **CHAPTER 505**

AN ACT TO AMEND CHAPTER 535 OF THE PUBLIC-LOCAL LAWS OF 1937 AND CHAPTER 860 OF THE 1961 SESSION LAWS RELATING TO THE BUREAU OF IDENTIFICATION FOR WAKE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 535 of the Public-Local Laws of 1937 is hereby amended by striking and deleting the title and words "Solicitor of the Seventh Judicial District" wherever they appear in the said Chapter and by substituting and inserting at every such point of deletion the title and words "District Attorney for the Tenth Judicial District".

Sec. 2. Chapter 535 of the Public-Local Laws of 1937 is hereby amended by striking and deleting the last sentence of Section 4 of the said Chapter 535.

Sec. 3. Chapter 860 of the Session Laws of 1961 is hereby amended by striking and deleting the words and figures "15th day of June, 1961," as those words and figures appear in Section 1 thereof, and by substituting and inserting at the said point of deletion the words and figures "1st day of June, 1976,".

Sec. 4. Chapter 860 of the Session Laws of 1961 is hereby amended by striking and deleting the title and words "Solicitor of the Seventh Judicial District" wherever they appear in the said Chapter and by substituting and inserting at every point of deletion the title and words "District Attorney for the Tenth Judicial District".

Sec. 5. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 9th day of June, 1975.

H. B. 166 **CHAPTER 506**

AN ACT TO MAKE PRISONERS AVAILABLE FOR WORK ON THE PUBLIC ROADS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 193 of the Session Laws of 1971, effective July 1, 1973, is hereby repealed.

Sec. 2. G.S. 148-26 is hereby amended by the reinstatement of G.S. 148-26(b), which had been repealed by Chapter 193 of the Session Laws of 1971, so as to read as follows:

"(b) As many minimum custody prisoners as are available and fit for road work, who cannot appropriately be placed on work release, study release, or other full-time programs, shall be employed in the maintenance and construction of public roads of the State as can be used for this purpose. The number and location of prisoners to be kept available for work on the public roads shall be agreed upon by the governing authorities of the State Department of Transportation and Highway Safety and the State Department of Correction far enough in advance of each budget to permit proper provisions to be made in the request for appropriations submitted by the Department of Transportation and Highway Safety. Any dispute between the departments will be resolved by the Governor. Prisoners so employed shall be compensated, at rates fixed by the Department of Correction's rules and regulations for work performed; provided, that no prisoner working on the public roads under the provisions of this section shall be paid more than one dollar ($1.00) per day from funds provided by the Department of Transportation and Highway Safety to the Department of Correction for this purpose."

Sec. 3. G.S. 148-18(a) is rewritten to read as follows:

"(a) Prisoners employed in prison enterprises shall be compensated, at rates fixed by the Department of Correction's rules and regulations, for work performed; provided, that no prisoner working for prison enterprises shall be paid more than one dollar ($1.00) per day from funds made available by the Prison Enterprises Fund.

Prisoners employed other than by prison enterprises and those involved in the maintenance and housekeeping of the prison system, shall be compensated at rates fixed by the Department of Correction's rules and regulations; provided, that no prisoner so paid shall receive more than one dollar ($1.00) per day. The source of wages and allowances provided inmates who are not employed by prison enterprises shall be funds provided by the Department of Transportation and Highway Safety to the Department of Correction for this purpose."

Sec. 4. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 9th day of June, 1975.

H. B. 203 CHAPTER 507

AN ACT TO AMEND G.S. 47-18(a) TO PROVIDE THAT OPTIONS TO CONVEY BE RECORDED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 47-18(a) is hereby rewritten as follows:

"(a) No (1) conveyance of land, or (2) contract to convey, or (3) option to convey, or (4) lease of land for more than three years shall be valid to pass any property interest as against lien creditors or purchasers for a valuable consideration from the donor, bargainor or lessor but from the time of registration thereof in the county where the land lies, or if the land is located in more than one county, then in each county where any portion of the land lies to be effective as to the land in that county."

Sec. 2. This act shall become effective October 1, 1975, and shall not affect pending litigation.

In the General Assembly read three times and ratified, this the 9th day of June, 1975.

H. B. 256 **CHAPTER 508**

AN ACT TO CLARIFY AND EXPAND THE REGISTRATION OF APPRAISAL AND MAPPING FIRMS.

The General Assembly of North Carolina enacts:

Section 1. Subsection (i) of G.S. 105-289 is hereby rewritten as follows:

"(i) To maintain a register of appraisal firms, mapping firms and other persons or firms having expertise in one or more of the duties of the tax supervisor; to review the qualifications and work of such persons or firms; and to advise county officials as to the professional and financial capabilities of such persons or firms to assist the tax supervisor in carrying out his duties under this Subchapter. To be registered with the Department of Revenue, such persons or firms shall annually file a report with the department setting forth the following information:

(1) A statement of the firm's ownership,

(2) A statement of the firm's financial condition,

(3) A list of the firm's principal officers with a statement of their qualifications and experience,

(4) A list of the firm's employees with a statement of their education, training and experience, and

(5) A full and complete resume of each employee which the firm proposes to place in a supervisory position in any mapping or revaluation project for a county in this State."

Sec. 2. G.S. 105-299 is hereby rewritten as follows:

"§ 105-299. *Employment of experts.*—The board of county commissioners may employ appraisal firms, mapping firms or other persons or firms having expertise in one or more of the duties of the tax supervisor to assist him in the performance of such duties. In the employment of such firms, primary consideration shall be given to the firms registered with the Department of Revenue pursuant to the provisions of G.S. 105-289(i). Contracts for the employment of such firms or persons shall be deemed to be contracts for personal services and shall not be subject to the provisions of Article 8, Chapter 143, of the General Statutes."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of June, 1975.

H. B. 387 **CHAPTER 509**

AN ACT TO AMEND G.S. 77-13 AND G.S. 77-14 TO PROVIDE FOR ENFORCEMENT BY FOREST LAW ENFORCEMENT OFFICERS OF THE DEPARTMENT OF NATURAL AND ECONOMIC RESOURCES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 77-13 and G.S. 77-14 are hereby amended by adding a sentence at the end thereof to read as follows:

"This section may be enforced by specially commissioned forest law enforcement officers of the Department of Natural and Economic Resources."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of June, 1975.

H. B. 506

CHAPTER 510

AN ACT TO AUTHORIZE THE UTILITIES COMMISSION TO ESTABLISH RULES FOR FILING RATE CASES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 62-134 is hereby amended by adding a new subsection at the end thereof to read as follows:

"(e) The Commission may adopt rules prescribing the information and exhibits required to be filed with any applications, or tariff for an increase in utility rates, including but not limited to all of the evidence or proof through the end of the test period which the utility will rely on at any hearing on such increase, and the Commission may suspend such increase until such data, information or exhibits are filed, in addition to the time provided for suspension of such increase in other provisions of this Chapter."

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of June, 1975.

S. B. 22

CHAPTER 511

AN ACT TO AMEND CHAPTER 135 OF THE GENERAL STATUTES OF NORTH CAROLINA TO EXTEND DEATH BENEFIT COVERAGE TO NINETY DAYS FOR TERMINATED STATE EMPLOYEES WITH ONE YEAR'S SERVICE AND TO ONE YEAR FOR CERTAIN DISABLED RETIRED STATE EMPLOYEES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 135-5(l) is hereby amended by deleting the following sentence in the first paragraph of this subsection:

"For the purposes of this subsection (l), a member shall be deemed to be in service at the date of his death if his last day of actual service occurred no more than 90 days before the date of his death.", and substituting in lieu thereof the following sentence:

"For the purposes of this subsection (l), a member shall be deemed to be in service at the date of his death if his last day of actual service occurred not more than 90 days before the date of his death or if his last day of actual service occurred not more than 366 days before the date of his death if such member during said one-year period had applied for and was entitled to receive a disability retirement allowance, provided said disability retirement allowance had not been discontinued or revoked during said one-year period."

Sec. 2. G.S. 135-5(l) as it appears in the 1974 replacement Volume 3B of the General Statutes is hereby amended by removing the semicolon at the end of line 13 and inserting in lieu thereof a comma followed by the word "or" and adding a new item, "(3)" to read as follows:

"(3) If the member had applied for and was entitled to receive a disability retirement allowance and such disability retirement allowance had not been discontinued or revoked within 366 days of his last date of actual service, the compensation on which contributions were made by the member during the

12-month period ending on the last day of the month preceding the month in which his last day of actual service occurred."

Sec. 3. This act shall become effective upon ratification but shall apply only to members of the Retirement System whose deaths occur after said ratification.

In the General Assembly read three times and ratified, this the 10th day of June, 1975.

S. B. 245 CHAPTER 512

AN ACT TO AMEND CHAPTER 143B, ARTICLE 7 OF THE GENERAL STATUTES RELATING TO THE POWERS OF THE ENVIRONMENTAL MANAGEMENT COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-282, as the same appears in the 1974 Supplement to Volume 3C of the General Statutes, is hereby amended by adding a new subsection (5) as follows:

"(5) The Environmental Management Commission shall have the power to adopt regulations with respect to any State laws administered under its jurisdiction so as to accept evidence of compliance with corresponding federal law or regulation in lieu of a State permit, or otherwise modify a requirement for a State permit, upon findings by the commission, and after public hearings, that there are:

(a) Similar and corresponding or more restrictive federal laws or regulations which also require an applicant to obtain a federal permit based upon the same general standards or more restrictive standards as the State laws and regulations require and;

(b) That the enforcement of the State laws and regulations would require the applicant to also obtain a State permit in addition to the required federal permit and;

(c) That the enforcement of the State laws and regulations would be a duplication of effort on the part of the applicant and;

(d) Such duplication of State and federal permit requirements would result in an unreasonable burden not only on the applicant, but also on the citizens and resources of the State."

Sec. 2. This bill shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 10th day of June, 1975.

S. B. 255 CHAPTER 513

AN ACT TO AMEND G.S. 136-41.1 RELATING TO THE ESTIMATE OF POPULATION FOR ALLOCATION OF POWELL BILL FUNDS TO MUNICIPALITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-41.1 is hereby amended in the second paragraph by deleting the comma and the word "and" which follow the words North Carolina Department of Administration and by inserting in lieu thereof, a period.

Further amend by inserting the following sentence after the word "Administration". "This annual estimation of population shall include increases

in the population within the municipalities caused by annexations accomplished through July 1st of the calendar year in which these funds are distributed."

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 10th day of June, 1975.

S. B. 274 CHAPTER 514

AN ACT TO AMEND THE LOCAL GOVERNMENT BUDGET AND FISCAL CONTROL ACT, IN ORDER TO CONFORM NORTH CAROLINA REQUIREMENTS AND PRACTICE TO GENERALLY ACCEPTED ACCOUNTING PRINCIPLES AND TO IMPROVE FINANCIAL ADMINISTRATION IN NORTH CAROLINA LOCAL GOVERNMENTS.

The General Assembly of North Carolina enacts:

Section 1. Each time G.S. Chapter 159 is amended in this act, the amendment is to Chapter 159 as enacted by Section 1 of Chapter 780 of the 1971 Session Laws and amended by Chapter 474 of the 1973 Session Laws, and as Chapter 159 appears in those two Session Laws.

Sec. 2. G.S. 159-7(b) is amended by deleting the following definitions: (6) (fund balance), (7) (encumbrances), (8) (reserve), and (9) (deferred revenues). The remaining definitions are renumbered accordingly.

Sec. 3. G.S. 159-8(a) is amended by striking the last two sentences and inserting in lieu thereof the following:

"Appropriated fund balance in any fund shall not exceed the sum of cash and investments minus the sum of liabilities, encumbrances, and deferred revenues, as those figures stand at the close of the fiscal year next preceding the budget year. It is the intent of this Article that, except for moneys expended pursuant to a project ordinance or accounted for in an intragovernmental service fund or a trust and agency fund excluded from the budget ordinance under G.S. 159-13(a), all moneys received and expended by a local government or public authority should be included in the budget ordinance. Therefore, notwithstanding any other provision of law, no local government or public authority may expend any moneys, regardless of their source (including moneys derived from bond proceeds, federal, state, or private grants or loans, or special assessments), except in accordance with a budget ordinance or project ordinance adopted under this Article or through an intragovernmental service fund or trust and agency fund properly excluded from the budget ordinance."

Sec. 4. G.S. 159-11 is amended by adding a new subsection (d) to read as follows:

"(d) The budget officer shall include in the budget a proposed financial plan for each intragovernmental service fund, as required by G.S. 159-13.1, and information concerning capital projects authorized or to be authorized by project ordinances, as required by G.S. 159-13.2."

Sec. 5. G.S. 159-13(a) is rewritten to read as follows:

"§ 159.13 . . .

"(a) Not earlier than 10 days after the day the budget is presented to the board and not later than July 1, the governing board shall adopt a budget

ordinance making appropriations and levying taxes for the budget year in such sums as the board may consider sufficient and proper, whether greater or less than the sums recommended in the budget. The budget ordinance shall authorize all financial transactions of the local government or public authority except (1) those authorized by a project ordinance, (2) those accounted for in an intragovernmental service fund for which a financial plan is prepared and approved, and (3) those accounted for in a trust or agency fund established to account for moneys held by the local government or public authority as an agent or common law trustee or to account for a retirement, pension, or similar employee benefit system. The budget ordinance may be in any form that the board considers most efficient in enabling it to make the fiscal policy decisions embodied therein, but it shall make appropriations by department, function, or project and show revenues by major source."

Sec. 6. G.S. 159-13(b) is amended as follows:

(a) Paragraph (4), requiring each fund to balance, is amended by adding a new sentence at the end thereof, to read as follows:

"Appropriated fund balance in a fund shall not exceed the sum of cash and investments minus the sum of liabilities, encumbrances, and deferred revenues, as those figures stand at the close of the fiscal year next preceding the budget year."

(b) The first sentence of Paragraph (5) is rewritten to read as follows:

"A contingency appropriation shall not exceed five percent (5%) of the total of all other appropriations in the same fund, except there is no limit on contingency appropriations for public assistance programs required by G.S. Chapter 108."

(c) Paragraph (7) is rewritten as follows:

"(7) The total of all appropriations for purposes which require voter approval for expenditure of property tax funds under Article V, G.S. 2(5), of the Constitution shall not exceed the total of all estimated revenues other than the property tax (not including such revenues required by law to be spent for specific purposes) and property taxes levied for such purposes pursuant to a vote of the people."

(d) Paragraph (10), dealing with estimates of revenues other than the property tax, and Paragraph (13), restricting appropriations from funds established to account for taxes collected on behalf of special districts, are deleted, and the intervening and succeeding paragraphs are renumbered accordingly.

(e) The final unnumbered paragraph is amended by striking the word and figures "(11), (12), (13), (14), (16), (17), or (18)" and inserting in lieu thereof the following: "(10), (11), (12), (14), (15), or (16)."

Sec. 7. A new G.S. 159-13.1 is enacted, to read as follows:

"§ 159-13.1. *Financial plan for intragovernmental service funds.*—(a) If a local government or public authority establishes and operates one or more intragovernmental service funds, it need not include such a fund in its budget ordinance. However, at the same time it adopts the budget ordinance, the governing board shall approve a balanced financial plan for each intragovernmental service fund. A financial plan is balanced when estimated expenditures do not exceed estimated revenues.

(b) The budget officer shall include in the budget he submits to the board, pursuant to G.S. 159-11, a proposed financial plan for each intragovernmental

service fund to be operated during the budget year by the local government or public authority. The proposed financial plan shall be in such form and detail as prescribed by the budget officer or governing board.

(c) The approved financial plan shall be entered in the minutes of the governing board, as shall each amendment to the plan approved by the board. Within five days after approval, copies of the plan and copies of each amendment thereto shall be filed with the finance officer, the budget officer, and the clerk to the governing board.

(d) Any change in a financial plan must be approved by the governing board."

Sec. 8. A new G.S. 159-13.2 is enacted, to read as follows:

"§ 159-13.2. *Capital project ordinances.*—(a) Capital project defined. In this section 'capital project' means a project financed in whole or in part by the proceeds of bonds or notes or a project involving the construction or acquisition of a capital asset.

(b) Alternative budget methods. A local government or public authority may, in its discretion, authorize and budget for a capital project either in its annual budget ordinance or in a project ordinance adopted pursuant to this section. A project ordinance authorizes all appropriations necessary for the completion of the project and neither it nor any part of it need be readopted in any subsequent fiscal year. A bond order does not constitute a project ordinance.

(c) Adoption of project ordinances. If a local government or public authority intends to authorize a capital project by a project ordinance, it shall not commence the project until it has adopted a balanced project ordinance. A project ordinance is balanced when revenues available for the project equal appropriations for the project. Such an ordinance shall identify and authorize the capital project to be undertaken, identify the revenues that will finance the project, and make the appropriations necessary for the project. The governing board may amend a project ordinance at any time subsequent to the ordinance's adoption, as long as it remains balanced.

(d) Ordinance filed. Each project ordinance shall be entered in the minutes of the governing board. Within five days after adoption, copies of the ordinance shall be filed with the finance officer, the budget officer, and the clerk to the governing board.

(e) Inclusion of project information in budget. Each year the budget officer shall include in the budget information in such detail as he or the governing board may require concerning capital projects (1) expected to be authorized by project ordinances during the budget year and (2) authorized by previously adopted project ordinances, under which expenditures are expected to be made during the budget year."

Sec. 9. G.S. 159-14 is amended as follows:

(a) The catchline of the section is rewritten to read:

"*Trust and agency funds; budgets of special districts.*"

(b) The present section is designated subsection (a), and the following catchline for the subsection inserted:

"Budgets of special districts."

(c) A new subsection (b) is added, to read as follows:

"(b) Transfers from certain trust and agency funds. Except for transfers to the appropriate special district or public authority, a unit of local government may not transfer moneys from a fund established to account for taxes collected on behalf of a special district or from a fund established to account for special

assessments collected on behalf of a public authority unless the special district or public authority has ceased to function."

Sec. 10. G.S. 159-25 is amended as follows:

(a) Paragraph (2) of subsection (a) is rewritten to read as follows:

"(2) He shall disburse all funds of the local government or public authority in strict compliance with this Chapter, the budget ordinance, and each project ordinance and shall preaudit obligations and disbursements as required by this Chapter."

(b) Subsection (b) is amended by inserting, in the first sentence, after the words "finance officer" and before the word "and" the words "or a properly designated deputy finance officer".

Sec. 11. G.S. 159-26 is rewritten, to read as follows:

"§ 159-26. *Accounting system.*—(a) System required. Each local government or public authority shall establish and maintain an accounting system designed to show in detail its assets, liabilities, equities, revenues, and expenditures. The system shall also be designed to show appropriations and estimated revenues as established in the budget ordinance and each project ordinance as originally adopted and subsequently amended.

(b) Funds required. Each local government or public authority shall establish and maintain in its accounting system such of the following funds and ledgers as are applicable to it. The generic meaning of each type of fund or ledger listed below is that fixed by generally accepted accounting principles.

1. General Fund.
2. Special revenue funds. Such funds shall be established for each function or activity financed in whole or in part by property taxes voted by the people, for each service district established pursuant to the Municipal or County Service District Acts, and as required by G.S. Chapter 115.
3. Debt service funds. A unit may combine the school debt service fund required by G.S. Chapter 115 with the unit's general debt service fund.
4. A fund for each utility or enterprise owned or operated by the unit or public authority. If a water system and a sanitary sewerage system are operated as a consolidated system, one fund may be established and maintained for the consolidated system.
5. Intragovernmental service funds.
6. Capital project funds. Such a fund shall be established to account for the proceeds of each bond order and for all other resources used for the capital projects financed by the bond proceeds. A unit or public authority may account for two or more bond orders in one capital projects fund, but the proceeds of each such bond order and the other revenues associated with that bond order shall be separately accounted for in the fund.
7. Trust and agency funds, including a fund for each special district or public authority whose taxes or special assessments are collected by the unit.
8. A ledger or group of accounts in which to record the details relating to the general fixed assets of the unit or public authority.
9. A ledger or group of accounts in which to record the details relating to the general obligation bonds and notes and other long-term obligations of the unit.

In addition, each unit or public authority may establish and maintain any other

funds it considers advisable and shall establish and maintain any other funds required by other statutes or by State or federal regulations.

(c) Basis of accounting. Except as otherwise provided by regulation of the Commission, local governments and public authorities shall use the modified accrual basis of accounting in recording transactions.

(d) Encumbrance systems. Except as otherwise provided in this subsection, no local government or public authority is required to record or show encumbrances in its accounting system. Each city or town with a population over 10,000 and each county with a population over 50,000 shall maintain an accounting system that records and shows the encumbrances outstanding against each category of expenditure appropriated in its budget ordinance. Any other local government or any public authority may record and show encumbrances in its accounting system. In determining a unit's population, the most recent federal decennial census shall be used.

(e) Commission regulations. The Commission may prescribe rules and regulations having the force of law as to:

1. Features of accounting systems to be maintained by local governments and public authorities.
2. Bases of accounting, including identifying in detail the characteristics of a modified accrual basis, identifying what revenues are susceptible to accrual, and permitting or requiring use of a basis other than modified accrual in a fund that does not account for the receipt of a tax.
3. Definitions of terms not clearly defined in this act.

The Commission may vary these rules and regulations according to the size of the local government or public authority, or according to any other criteria reasonably related to the purpose or complexity of the financial operations involved."

Sec. 12. G.S. 159-28 is rewritten to read as follows:

"§ 159-28. *Budgetary accounting for appropriations.*—(a) Incurring obligations. No obligation may be incurred in a program, function, or activity accounted for in a fund included in the budget ordinance unless the budget ordinance includes an appropriation authorizing the obligation and an unencumbered balance remains in the appropriation sufficient to pay in the current fiscal year the sums obligated by the transaction for the current fiscal year. No obligation may be incurred for a capital project authorized by a project ordinance unless that project ordinance includes an appropriation authorizing the obligation and an unencumbered balance remains in the appropriation sufficient to pay the sums obligated by the transaction. If an obligation is evidenced by a contract or agreement requiring the payment of money or by a purchase order for supplies and materials, the contract, agreement, or purchase order shall include on its face a certificate stating that the instrument has been preaudited to assure compliance with this subsection. The certificate, which shall be signed by the finance officer or any deputy finance officer approved for this purpose by the governing board, shall take substantially the following form:

'This instrument has been preaudited in the manner
required by the Local Government Budget and Fiscal
Control Act.
_____ (Signature of finance officer) _____.'

Certificates in the form prescribed by G.S. 153-130 or G.S. 160-411 as those sections read on June 30, 1973, or by G.S. 159-28(b) as that section read on June

30, 1975, are sufficient until supplies of forms in existence on June 30, 1975, are exhausted.

An obligation incurred in violation of this subsection is invalid and may not be enforced. The finance officer shall establish procedures to assure compliance with this subsection.

(b) Disbursements. When a bill, invoice, or other claim against a local government or public authority is presented, the finance officer shall either approve or disapprove the necessary disbursement. If the claim involves a program, function, or activity accounted for in a fund included in the budget ordinance or a capital project authorized by a project ordinance, the finance officer may approve the claim only if (1) he determines the amount to be payable and (2) the budget ordinance or a project ordinance includes an appropriation authorizing the expenditure and either (i) an encumbrance has been previously created for the transaction or (ii) an unencumbered balance remains in the appropriation sufficient to pay the amount to be disbursed. The finance officer may approve a bill, invoice, or other claim requiring disbursement from an intragovernmental service fund or trust or agency fund not included in the budget ordinance, only if the amount claimed is determined to be payable. A bill, invoice, or other claim may not be paid unless it has been approved by the finance officer or, under subsection (c) of this section, by the governing board. The finance officer shall establish procedures to assure compliance with this subsection.

(c) Governing board approval of bills, invoices, or claims. The governing board may, as permitted by this subsection, approve a bill, invoice, or other claim against the local government or public authority that has been disapproved by the finance officer. It may not approve a claim for which no appropriation appears in the budget ordinance or in a project ordinance, or for which the appropriation contains no encumbrance and the unencumbered balance is less than the amount to be paid. The governing board shall approve payment by formal resolution stating the board's reasons for allowing the bill, invoice, or other claim. The resolution shall be entered in the minutes together with the names of those voting in the affirmative. The chairman of the board or some other member designated for this purpose shall sign the certificate on the check or draft given in payment of the bill, invoice, or other claim. If payment results in a violation of law, each member of the board voting to allow payment is jointly and severally liable for the full amount of the check or draft given in payment.

(d) Payment. A local government or public authority may not pay a bill, invoice, salary, or other claim except by a check or draft on an official despository or by a bank wire transfer from an official depository. Except as provided in this subsection each check or draft on an official depository shall bear on its face a certificate signed by the finance officer or a deputy finance officer approved for this purpose by the governing board (or signed by the chairman or some other member of the board pursuant to subsection (c) of this section). The certificate shall take substantially the following form:

'This disbursement has been approved as required by
the Local Government Budget and Fiscal Control Act.
_____
(Signature of finance officer).'

Certificates in the form prescribed by G.S. 153-131 or G.S. 160-411.1 as those sections read on June 30, 1973, or by G.S. 159-28(a) as that section read on June

30, 1975, are sufficient until supplies in existence on June 30, 1975, are exhausted.

No certificate is required on payroll checks or drafts on an imprest account in an official depository, if the check or draft depositing the funds in the imprest account carried a signed certificate.

(e) Penalties. If an officer or employee of a local government or public authority incurs an obligation or pays out or causes to be paid out any funds in violation of this section, he and the sureties on his official bond are liable for any sums so committed or disbursed. If the finance officer or any properly designated deputy finance officer gives a false certificate to any contract, agreement, purchase order, check, draft, or other document, he and the sureties on his official bond are liable for any sums illegally committed or disbursed thereby."

Sec. 13. A new G.S. 159-28.1 is added, to read as follows:

"§ 159-28.1. *Facsimile signatures.*—The governing board of a local government or public authority may provide by appropriate resolution or ordinance for the use of facsimile signature machines, signature stamps, or similar devices in signing checks and drafts and in signing the preaudit certificate on contracts or purchase orders. The board shall charge the finance officer or some other bonded officer or employee with the custody of the necessary machines, stamps, plates, or other devices, and that person and the sureties on his official bond are liable for any illegal, improper, or unauthorized use of them."

Sec. 14. G.S. 159-29 is amended as follows:

(a) The catchline is rewritten to read:

"*Fidelity bonds.*"

(b) The existing section is designated subsection (a). In addition, the words and figures "one hundred thousand dollars ($100,000)" appearing at the end of the first sentence of the existing section are deleted and the following are inserted in their place: "two hundred fifty thousand dollars ($250,000)".

(c) Two new subsections (b) and (c) are added, as follows:

"(b) Each officer, employee, or agent of a local government or public authority who handles or has in his custody more than one hundred dollars ($100.00) of the unit's or public authority's funds at any time, or who handles or has access to the inventories of the unit or public authority, shall, before being entitled to assume his duties, give a faithful performance bond with sufficient sureties payable to the local government or public authority. The governing board shall determine the amount of the bond, and the unit or public authority may pay the premium on the bond. Each bond, when approved by the governing board, shall be deposited with the clerk to the board.

If another statute requires an officer, employee, or agent to be bonded, this subsection does not require an additional bond for that officer, employee, or agent.

(c) A local government or public authority may adopt a system of blanket faithful performance bonding as an alternative to individual bonds. If such a system is adopted, statutory requirements of individual bonds, except for elected officials and for finance officers and tax collectors by whatever title known, do not apply to an officer, employee, or agent covered by the blanket bond. However, although an individual bond is required for a tax collector or finance officer, such an officer may also be included within the coverage of a blanket

bond if the blanket bond protects against risks not protected against by the individual bond."

Sec. 15. G.S. 159-34 is amended by adding a new sentence immediately after the present fourth sentence, to read as follows:

"The audit shall be performed and the report prepared in conformity with generally accepted auditing standards."

Sec. 16. If HB 47, pending in the 1975 General Assembly is enacted, then G.S. 159-26, as rewritten by this bill, is amended as follows:

(a) G.S. 159-26(b) is amended by rewriting paragraphs 2., 3., and 7. as follows:

"2. Special revenue funds. Such funds shall be established for each function or activity financed in whole or in part by property taxes voted by the people, and for each service district established pursuant to the Municipal or County Service District Acts.

3. Debt service funds.

7. Trust and agency funds, including a fund for each special district, public authority, or school administrative unit whose taxes or special assessments are collected by the unit."

The changes made to G.S. 159-26 by this section are effective at the same time as the amendments made by HB 47 to G.S. Chapter 115.

Sec. 17. G.S. 153A-29 and G.S. 160A-65 are repealed.

Sec. 18. Except as provided in this section and Section 16, this act becomes effective July 1, 1975. Units of local government and public authorities shall prepare their budgets for the fiscal year beginning July 1, 1976, in accordance with the Local Government Budget and Fiscal Control Act, as amended by this act. As to budget ordinances for the fiscal year beginning July 1, 1975, units of local government and public authorities may comply with the Local Government Budget and Fiscal Control Act as amended by this act, or, alternatively, may comply with the Local Government Budget and Fiscal Control Act as it existed on January 1, 1975, and to that end the provisions thereof shall remain effective until July 1, 1976.

In the General Assembly read three times and ratified, this the 10th day of June, 1975.

S. B. 349 CHAPTER 515

AN ACT TO AUTHORIZE DEPARTMENT OF TRANSPORTATION TO PROVIDE HOUSING AS A LAST RESORT WHEN REPLACEMENT HOUSING IS NOT AVAILABLE TO PERSONS TO BE DISPLACED BY A GOVERNMENTAL PROGRAM OR PROJECT.

The General Assembly of North Carolina enacts:

Section 1. Chapter 133 of the General Statutes is hereby amended by adding a new section to be numbered G.S. 133-10.1 and to read as follows:

"§ 133-10.1. *Authorization, replacement housing.*—If subject to the 'additional payment' limitation specified in G.S. 133-9(a) with respect to each person displaced from a dwelling actually owned and occupied by him a program or project cannot proceed to actual construction because of the lack of availability of comparable sale or rental housing, the Department of Transportation, upon a determination that such housing cannot otherwise be made available, may (1) undertake through private contractors, after

competitive bidding, to provide for the construction and renovation of the necessary housing, (2) purchase sites and improvements after publishing in a newspaper of general circulation in the county in which such sites are located a public notice of the proposed transaction, including a description of the sites and improvements to be purchased, the owner or owners thereof, the terms of the transaction including the price and date of the proposed purchase, and a brief description of the factors upon which the agency has based its determination that such housing is not otherwise available, and (3) sell or lease the premises to the displaced person upon such terms as the agency deems necessary."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of June, 1975.

S. B. 431

CHAPTER 516

AN ACT TO AMEND G.S. 153A-267 TO COMPLY WITH CHAPTER 125-9 AND CHAPTER 143B-67 OF THE GENERAL STATUTES PERTAINING TO THE PUBLIC LIBRARIAN CERTIFICATION COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Chapter 153A-267 of the General Statutes of North Carolina as the same appears under Section (a) is amended as follows:

"(a) To be eligible for appointment and service as chief administrative officer of a library system (whether designated chief librarian, director of library services, or some other title), a person must have a professional librarian certificate issued by the Secretary of Cultural Resources, pursuant to Chapter 125-9 of the General Statutes, under regulations for certification of Public Librarian as established by the North Carolina Public Librarian Certification Commission pursuant to the provisions of Chapter 143B-67."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of June, 1975.

S. B. 507

CHAPTER 517

AN ACT AMENDING G.S. 160A-475(1) AND G.S. 160A-475(8) RELATING TO REGIONAL COUNCILS OF GOVERNMENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-475(1) is hereby rewritten to read as follows:

"(1) To apply for, accept, receive, and dispense funds and grants made available to it by the State of North Carolina or any agency thereof, the United States of America or any agency thereof, any unit of local government (whether or not a member of the council), and any private or civic agency;".

Sec. 2. G.S. 160A-475(8) is hereby amended by adding to the end thereof the following: "to the extent such powers are specifically delegated to it from time to time by resolution of the governing board of each of its member governments which are affected thereby."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of June, 1975.

S. B. 599

CHAPTER 518

AN ACT TO PLACE TUBERCULAR INMATES AND HEALTH LAW VIOLATORS UNDER THE CONTROL OF THE DEPARTMENT OF CORRECTION.

The General Assembly of North Carolina enacts:

Section 1. Article 11, Chapter 131 of the General Statutes, consisting of G.S. 131-84 through G.S. 131-89, is repealed.

Sec. 2. G.S. 130-114 is amended by inserting the subsection notation "(a)" at the beginning thereof.

Sec. 3. G.S. 130-114 is further amended by deleting the second, third and fourth paragraphs thereof, and inserting in lieu thereof the following:

"(b) If any person shall plead guilty to, or be convicted of, any of the violations set forth in subdivisions (2) and (3) of subsection (a), such person shall be imprisoned for a period of up to two years, under the supervision of the Department of Correction, in the special facilities to be operated by the Department of Correction adjacent to the McCain Hospital, McCain, North Carolina. However, the court may suspend the sentence if the violator consents to be hospitalized in a State or federal sanatorium or a general hospital and remains there until discharged by the medical director or controlling authority of the facility, provided that the violator has not been previously discharged from a hospital for disciplinary reasons while undergoing treatment for tuberculosis or has not previously discharged himself from such a facility against medical advice.

The Secretary of Correction, or his authorized agent, may discharge a person imprisoned for health care violation under this section at any time if he finds that the discharge is without danger to the life or health of others. He shall report each such discharge, together with a full statement of the reasons therefor, to the health director serving the territory from which the person came. Additionally, he may transfer any patient imprisoned under this section from the special facilities adjacent to the McCain Hospital to any State sanatorium or Veterans Administration Tuberculosis Hospital, with the consent of the receiving facility. The person transferred shall at all times remain under the custody and control of the Department of Correction.

(c) The provisions of this section apply to minors as well as adults. However, persons under 16 years of age, upon conviction of a violation of this section, shall not be imprisoned in the special facilities adjacent to McCain Hospital, but shall be placed in a State or federal sanatorium or a general hospital for treatment."

Sec. 4. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 5. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 10th day of June, 1975.

S. B. 622 **CHAPTER 519**

AN ACT TO AMEND ARTICLE 21 OF CHAPTER 58 OF THE GENERAL STATUTES TO ALLOW A BROADER LATITUDE IN INVESTMENT OF SECURITIES AND PROVIDE FOR OTHER LINES OF INSURANCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-189 is hereby amended by rewriting the second paragraph as follows:

"There is hereby created a 'State property fire insurance fund,' which shall be as a special fund in the State Treasury, for the purpose of providing a reserve against loss from fire at State departments and institutions. The State Treasurer shall invest all funds deposited in the 'State property fire insurance fund' in the same type of securities which the North Carolina Teachers' and State Employees' Retirement System funds may be invested and all earnings shall become a part of the fund and be held and invested as all contributions are invested. The unexpended appropriations of State departments and institutions for fire insurance premiums for the fiscal year 1944-1945 and the appropriations for fire insurance premiums made for the biennium 1945-47 or that may thereafter be made for this purpose shall be transferred to the 'State property fire insurance fund'."

Sec. 2. G.S. 58-191.1 is hereby amended as follows:

(1) By inserting immediately after the word "insurance" on line 2 the words ", and other property insurance".

(2) By deleting from line 2 the words "shall be" and inserting in lieu thereof the words "may be".

Sec. 3. This act shall be in full force and in effect upon ratification.

In the General Assembly read three times and ratified, this the 10th day of June, 1975.

S. B. 720 **CHAPTER 520**

AN ACT TO AMEND G.S. 35-43 AND G.S. 35-44 TO ALLOW REPRESENTATION BY THE DISTRICT ATTORNEY AT STERILIZATION HEARINGS TO BE DISCRETIONARY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 35-43 is hereby amended by striking the word "shall" as it appears in the third sentence immediately after the word "assistant" and immediately before the word "present" and substituting therefor the word "may".

Sec. 2. G.S. 35-44 is hereby amended by striking the word "shall" as it appears in the third sentence immediately after the word "assistant" and immediately before the word "present" and substituting therefor the word "may".

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of June, 1975.

S. B. 741 **CHAPTER 521**

AN ACT TO AMEND G.S. 143, ARTICLE 21A, RELATING TO CONTROL OF OIL POLLUTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-215.99 is hereby repealed.

Sec. 2. G.S. 143, Article 21A, is hereby amended by adding a new Part to be numbered "4" and to be entitled "Oil Refining Facility Permits", to read as follows:

"Part 4. Oil Refining Facility Permits.

"§ 143-215.99. *Oil refining facility permits.*—No facility which is to be used or is capable of being used for the purpose of refining oil shall be initiated or constructed after the effective date of this Part without a permit from the Secretary of Natural and Economic Resources.

"§ 143-215.100. *Powers of the secretary.*—The secretary, in addition to any other powers granted under the laws of this State, shall have the power:

(a) To adopt, modify and revoke rules and regulations relating to the issuance of oil refining facility permits. Such rules and regulations may include, but shall not be limited to, the following matters:

(1) Requirements for submission of engineering reports, plans and specifications for the location and construction of oil terminal facilities.

(2) Establishment of procedures and methods of reporting discharges and other occurrences prohibited by this Article.

(3) Establishment of procedures, methods, means, and equipment to be used in the removal of oil pollutants.

(b) To deny the issuance of a permit upon a finding that:

(1) The installation will have substantial adverse effects on wildlife or on fresh water, estuarine or marine fisheries; or

(2) The operation of the installation will violate standards of air or water quality promulgated or administered by the Environmental Management Commission; or

(3) The installation will have a substantial adverse effect on a publicly owned park, forest, or recreation area.

(c) To grant permits for the operation of existing or proposed oil refining facilities and to impose such terms and conditions therein as it shall deem necessary and appropriate to effectuate the purposes of this Article.

(d) To require the installation of such facilities and the employment of such protective measures and operating procedures as are deemed necessary to prevent, insofar as possible, any oil discharges to the waters or lands of the State.

(e) To issue guidelines consistent with the Uniform Administrative Practices Act for the issuance or denial of permits.

"§ 143-215.101. *Penalties.*—(a) Civil Penalty. Any person who violates any provision of this Part, or any rule, regulation or order made pursuant to this Part, shall incur, in addition to any other penalty provided by law, a civil penalty in an amount not to exceed ten thousand dollars ($10,000) for every such violation, the amount to be determined by the commission after taking into consideration the gravity of the violation, the previous record of the violator in complying or failing to comply with the provisions of this Article as well as G.S. 143-215.1, and such other considerations as the commission deems appropriate. The penalty herein provided for shall become due and payable

when the person incurring the penalty receives a notice in writing from the commission describing the violation with reasonable particularity and advising such person that the penalty is due. The commission may, upon written application therefor, received within 15 days, and when deemed in the best interest of the State in carrying out the purposes of this Article, remit or mitigate any penalty provided for in this section or discontinue any action to recover the penalty upon such terms, as it, in its discretion shall deem proper, and shall have the authority to ascertain facts upon all such applications in such manner and under such regulations as the commission may adopt. If the amount of such penalty is not paid to the Department of Natural and Economic Resources within 15 days after receipt of notice, or if an application for remission or mitigation has not been made within 15 days as herein provided, the amount provided in the order issued by the commission subsequent to such application is not paid within 15 days of receipt thereof, the Attorney General, upon request of the commission, shall bring an action in the name of the State in the Superior Court of Wake County or of any other county wherein such violator resides or does business, to recover the amount specified in the final order of the commission. In any such action, the amount of the penalty shall be subject to review by the court. In all such actions the procedures and rules of evidence shall be the same as in an ordinary civil action except as otherwise in this Article provided. Any sums recovered under this subsection shall be payable to the Oil Pollution Protection Fund as established by this Article.

(b) Criminal Penalties. Any person who intentionally or knowingly or willfully violates any provision of this Part, or any rule, regulation or order made pursuant to this Part shall be guilty of a misdemeanor punishable by imprisonment not to exceed six months or by fine to be not more than ten thousand dollars ($10,000), or both, in the discretion of the court. No proceeding shall be brought or continued under this subsection for or on account of a violation by any person who has previously been convicted of a federal violation or a local ordinance violation based upon the same set of facts."

Sec. 3. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 10th day of June, 1975.

S. B. 755 **CHAPTER 522**

AN ACT TO AMEND G.S. 136-104 TO ALLOW LIFE TENANTS TO TAKE THE PRESENT VALUE OF THEIR LIFE ESTATES OUT OF CONDEMNATION DEPOSITS AND FINAL JUDGMENT AWARDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-104, as the same appears in the 1974 Replacement Volume 3B of the General Statutes, is hereby amended by inserting a new paragraph following that paragraph ending in the word "therein." in line 14 and preceding the paragraph beginning with the word "On" in line 15 to read:

"Where there is a life estate and a remainder either vested or contingent, in lieu of the investment of the proceeds of the amount determined and awarded as just compensation to which the life tenant would be entitled to the use during the life estate, the court may in its discretion order the value of said life tenant's share during the probable life of such life tenant be ascertained as now provided by law and paid directly to the life tenant out of the final award as just

compensation established by the judgment in the cause and the life tenant may have the relief provided for in G.S. 136-105."

Sec. 2. This act shall apply to all pending condemnation proceedings in which the final award or judgment has not been entered and shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of June, 1975.

S. B. 759 CHAPTER 523

AN ACT TO AMEND G.S. 146-25.1 TO REDUCE THE REQUIRED TIME FOR ADVERTISING AND RECEIVING OF BIDS FOR STATE LEASES AND TO EXEMPT CERTAIN TYPES OF LEASES FROM ADVERTISING REQUIREMENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 146-25.1(a) as it appears in the 1974 Cumulative Supplement to Volume 3C of the General Statutes is amended by deleting the words "three consecutive weeks" from line 8 and inserting in lieu thereof the words "five consecutive days" and by deleting the figures and words "20 days" from line 9 and inserting in lieu thereof the words "seven days".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of June, 1975.

S. B. 776 CHAPTER 524

AN ACT TO PROHIBIT THE FIRING OF SHOTGUNS, RIFLES AND OTHER FIREARMS FROM STATE-MAINTAINED ROADS AND RIGHT-OF-WAYS IN YEOPIM PRECINCT OF CHOWAN COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It shall be unlawful for any person to fire or discharge any shotgun, rifle or any other firearm of any type from, to or across any State-maintained road or State-maintained right-of-way in Yeopim Precinct of Chowan County.

Sec. 2. Any person violating the provisions of this act shall be guilty of a misdemeanor and shall be fined not less than twenty-five dollars ($25.00) and not more than one hundred dollars ($100.00), or imprisoned for not more than 30 days, or both fined and imprisoned, in the discretion of the court.

Sec. 3. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 10th day of June, 1975.

S. B. 781

CHAPTER 525

AN ACT TO RESTRICT THE HUNTING OF GAME FROM PUBLIC ROADS IN BLADEN COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It shall be unlawful for any person to hunt, take, kill, or attempt to hunt, take or kill any game from any public road or highway where such public road or highway adjoins land which is posted according to law; provided, however, this act shall not apply to any person who has secured and has in his possession the prior written permission of the owner or lessor of such posted land to hunt on said land.

Sec. 2. It shall be the duty of all law enforcement officers in Bladen County, including game protectors employed by the Wildlife Resources Commission, to enforce the provisions of this act.

Sec. 2 1/2. Any person convicted of violating this act shall be punished by a fine of up to fifty dollars ($50.00) or imprisonment up to 30 days, or both, in the discretion of the court.

Sec. 3. This act shall apply only to Bladen County.

Sec. 4. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 10th day of June, 1975.

S. B. 783

CHAPTER 526

AN ACT TO AUTHORIZE THE ATTORNEY GENERAL TO EMPLOY AN ATTORNEY TO PERFORM LEGAL SERVICES FOR NORTH CAROLINA MEMORIAL HOSPITAL AT CHAPEL HILL.

The General Assembly of North Carolina enacts:

Section 1. Chapter 114 of the General Statutes is hereby amended by adding the following new section thereto:

"§ 114-4.2B. *Employment of attorney for North Carolina Memorial Hospital at Chapel Hill.*—The Attorney General is hereby authorized to employ an attorney to be assigned by him full time to the North Carolina Memorial Hospital at Chapel Hill. Such attorney shall be subject to all the provisions of Chapter 126 of the General Statutes, relating to the State Personnel System. Such attorney shall also perform additional duties as may be assigned to him by the Attorney General.

The attorney employed by the Attorney General under provisions of this act shall be paid from the funds of the North Carolina Memorial Hospital at Chapel Hill."

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 10th day of June, 1975.

S. B. 785 **CHAPTER 527**

AN ACT AMENDING G.S. 142-13 RELATING TO THE DESTRUCTION OF CANCELLED STATE BONDS, NOTES AND COUPONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 142-13 is hereby amended to read as follows:

"§ 142-13. *Destruction of cancelled bonds, notes and coupons.*—All cancelled bonds, notes and interest coupons of the State may be destroyed in one of the following ways, in the discretion of the treasurer:

(1) Method 1. The treasurer shall make an entry in a substantially bound book kept by him for the purpose of recording the destruction of bonds, notes and coupons, showing

a. With respect to bonds and notes, the designation, the date of issue, serial numbers (if any), denomination, maturity date, and total principal amount.

b. With respect to coupons, the designation and date of the bonds to which the coupons appertain, the maturity date of the coupons and, as to each maturity date, the denomination, quantity and total amount of coupons.

After this entry has been made, the paid bonds, notes or coupons shall be destroyed, by either burning or shredding, in the presence of the Council of State. Each member of the Council of State in attendance shall certify under his hand in the book kept by the treasurer that he saw the bonds, notes or coupons destroyed. Cancelled bonds, notes or coupons shall not be destroyed until after one year from the date of payment.

(2) Method 2. The treasurer may contract with the bank or trust company acting as paying agent for a bond issue for the destruction of bonds and interest coupons which have been cancelled by the paying agent. The contract shall require that the paying agent give the treasurer a written certificate of each destruction containing the same information required by Method 1 to be entered in the record of destroyed bonds and coupons. The certificates shall be filed among the permanent records of the treasurer. Cancelled bonds or coupons shall not be destroyed until one year from the date of payment.

The provisions of G.S. 121-5 and G.S. 132-3 shall not apply to any such paid bonds, notes or coupons."

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of June, 1975.

S. B. 809 **CHAPTER 528**

AN ACT TO PERMIT MUTUAL DEPOSIT GUARANTY ASSOCIATIONS TO INVEST THEIR FUNDS IN THE STOCK OF SAVINGS AND LOAN ASSOCIATIONS AND BANKS AUTHORIZED TO DO BUSINESS IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. G.S. 54-44.8(5) as the same appears in the 1975 Replacement to Volume 2B of the North Carolina General Statutes is hereby amended by adding thereto the following:

"i. Stock in banking institutions licensed to do business in the State of North Carolina."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of June, 1975.

S. B. 814 **CHAPTER 529**

AN ACT TO AMEND G.S. 7A-41 TO PROVIDE FOR TEMPORARY REPLACEMENT OF AN INCAPACITATED SENIOR RESIDENT JUDGE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-41 is amended by adding at the end thereof a new paragraph to read as follows:

"In the event the senior regular resident judge of a multi-judge district is unable, due to mental or physical incapacity, to exercise the authority vested in him by the statute, and the Chief Justice, in his discretion, has determined that such incapacity exists, the Chief Justice shall appoint an acting senior regular resident judge from the other regular resident judges of the district, to exercise, temporarily, the authority of the senior regular resident judge. Such appointee shall serve at the pleasure of the Chief Justice and until his temporary appointment is vacated by appropriate order."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of June, 1975.

S. B. 825 **CHAPTER 530**

AN ACT TO PROVIDE FOR THE DIVISION OF ABC PROFITS IN THE TOWN OF MADISON.

The General Assembly of North Carolina enacts:

Section 1. (a) Section 1 of Chapter 504 of the Session Laws of 1971 is hereby amended by striking from lines 5 and 6 the words "for use in establishing a Madison Medical Facility" and inserting in lieu thereof "which, in the discretion of such governing body, may be appropriated annually to the Madison Medical Facility, Inc., a nonprofit corporation, for exclusive use by the Madison Medical Facility, Inc., for the purposes of construction, maintenance and operation of a medical facility or clinic within the Town of Madison for the treatment and services of health care for the area residents".

(b) Section 1 of Chapter 504 of the Session Laws of 1971 is further amended by deleting the words "governing body" in line 7 and inserting in lieu thereof the words "General Fund".

Sec. 2. Chapter 67 of the Session Laws of 1973 is hereby repealed.

Sec. 3. This act shall take effect from and after its ratification.

In the General Assembly read three times and ratified, this the 10th day of June, 1975.

H. B. 508 CHAPTER 531

AN ACT TO ESTABLISH THE STATE BOARD OF REGISTRATION OF FORESTERS IN NORTH CAROLINA AND TO DEFINE ITS POWERS AND DUTIES, TO PROVIDE FOR THE REGISTRATION OF FORESTERS, TO DEFINE THE PRACTICE OF FORESTRY, AND TO PROVIDE PENALTIES FOR VIOLATION THEREOF.

The General Assembly of North Carolina enacts:

Section 1. General provisions. (a) No person shall, in connection with his name or otherwise assume, use or advertise any title or description tending to convey, directly or indirectly, the impression that he is a registered forester without first having been registered as a registered forester as hereinafter provided.

(b) It is the intention of this act to benefit and protect the public by improving the standards relative to the practice of professional forestry in North Carolina.

Sec. 2. Definitions. As used in this act:

(1) "Board" shall mean the State Board of Registration for Foresters, provided for by this act.

(2) "Forester" means a person who by reason of his special knowledge and training in natural sciences, mathematics, silviculture, forest protection, forest mensuration, forest management, forest economics, and forest utilization is qualified to engage in the practice of forestry as hereinafter defined.

(3) "Practicing" means giving professional forestry services, including but not limited to consultation, investigation, evaluation, education, planning, or responsible supervision of any forestry activities requiring knowledge, and training in and experience of forestry principles and techniques.

(4) "Registered forester" means a person who has been registered pursuant to this act.

Sec. 3. State Board of Registration for Foresters; appointment of members; terms. (a) A State Board of Registration for Foresters is hereby created whose duty it shall be to administer the provisions of this act. The Board shall consist of four duly practicing registered foresters and one at-large member, who shall be appointed by the Governor for a term of five years. In the initial appointments of foresters, the Governor shall appoint four practicing foresters, at least three of whom shall hold at least a bachelor's degree from an accredited forestry school. The appointments shall have the effect of duly registering the appointees who are practicing foresters. The initial board shall be appointed for terms of one, two, three, four, and five years respectively beginning July 1, 1975. The members of the Board shall serve for the terms hereinbefore specified and until their successors are duly appointed and qualified. Upon the expiration of the term of any forester Board member, the

Governor shall appoint as his successor a practicing registered forester. Upon the expiration of the term of the at-large member, the Governor shall appoint an at-large successor.

(b) Each member of the Board shall be a citizen of the United States and a resident of North Carolina.

(c) Vacancies in the membership of the Board shall be filled by appointment by the Governor for the unexpired term.

(d) The Board shall elect annually the following officers: a chairman, and a vice-chairman, who shall be members of the Board, and a secretary who may be a member of the Board. A quorum of the Board shall consist of not less than three voting members of the Board.

Sec. 4. Compensation and expenses of Board members. Each member of the Board shall receive per diem and allowances as provided with respect to occupational licensing boards by G.S. 93B-5.

Sec. 5. Organization and meetings of the Board. The Board shall meet on call of the Governor within 30 days after its initial members are appointed, and thereafter shall hold at least two regular meetings each year. Special meetings may be held at such time and place as the bylaws of the Board may provide.

Sec. 6. Powers of the Board. The Board may make all reasonable and necessary rules for the proper performance of its duties and the regulation of the proceedings before it. The Board shall adopt an official seal. Any member of the Board may administer oaths or affirmations to witnesses appearing before the Board.

Sec. 7. Receipts and disbursements. The secretary of the Board shall receive and account for all moneys derived under the provision of this act, and shall keep such moneys in a separate fund to be known as the "Registered Foresters' Fund." Moneys in the aforesaid fund shall be expended to carry out the purposes of the Board. The secretary of the Board shall give surety bond to the Board in such sum as the Board may determine, the premium of which shall be regarded as a proper expense of the Board and shall be paid from the Registered Foresters' Fund.

The Board may employ and fix the compensation of necessary clerical and other assistants. The compensation of such assistants shall be paid out of the Registered Foresters' Fund.

Sec. 8. Records and reports. The Board shall keep a record of its proceedings and a register of all applications for registration. The register shall show the name, age and residence of each applicant; the date of the application; applicant's place of business; his educational and other qualifications; whether or not examination was required; whether application was rejected or registration was granted; date of action by the Board; and other information as may be deemed necessary by the Board. Annually on July 1st the Board shall submit to the Governor a report of its transactions of the preceding year.

Sec. 9. General requirements for registration. (a) Applicants for registration shall be registered upon satisfactory showing to the Board that the applicant:

(1) is of good moral character, and

(2) has either:

i. graduated with a bachelor's or higher degree in a forestry curriculum from a school or college of forestry approved by the Board and has had two or more years experience in forestry; or

ii. passed a written examination designed to show knowledge approximating that obtained through graduation from a four-year curriculum in forestry in a university or college approved by the Board, and has a record of five or more years of active practice in forestry work of a character satisfactory to the Board; provided that five or more years shall be immediately prior to the application; or

iii. is a resident of North Carolina and has engaged in the practice of forestry for five years immediately prior to the effective date of this section and has held himself out in writing and has been employed as a practicing forester for that period. Such person shall make written application under oath of the Board to be registered on or before June 30, 1976, and thereafter no person shall be registered under this subparagraph.

(b) Registration shall be determined upon the basis of individual personal qualification. No firm, company, partnership, corporation or public agency shall be registered as a registered forester.

(c) A non-resident of North Carolina may become a registered forester under this act by complying with its terms, and by filing a consent as to service of process and pleadings upon the Board secretary. In connection with the practice of forestry by such non-resident in North Carolina, the consent as to service of process and pleadings shall be held binding and valid in all courts, as if due service had been made personally upon said non-resident by the Board, when such process has been served upon the Board secretary.

(d) A person not a resident of North Carolina, or one who has recently become a resident thereof, may become registered under this act upon written application to the Board, provided: (1) such person is legally registered as a registered forester in his own state or country and has submitted evidence to the Board that he is so registered; and (2) the state or country in which he is so registered observes these same rules of reciprocity in regard to persons registered under the provisions of this act.

(e) A non-resident of North Carolina may use the term "registered forester" in North Carolina without becoming registered under this act provided that he is registered in another state which will reciprocate with the provision of this act.

Sec. 10. Application and registration fees. Applications for registration shall be made on forms prescribed and furnished by the Board. The application fee for a certificate of registration as a registered forester shall be fifteen dollars ($15.00), which shall accompany the application. An additional fifteen dollars ($15.00) shall be paid upon issuance of the certificate of registration. Should the applicant fail or refuse to remit the certificate fee within 30 days after being notified in the usual manner that the applicant has successfully qualified, he forfeits the right to have the certificate so issued and said applicant may be required again to submit an original application fee therefor. Should the Board deny the issuance of a certificate of registration to any applicant, the initial application fee deposited by the applicant shall be retained by the Board.

Sec. 11. Expiration and renewals. Registrations shall expire on the last day of June following issuance or renewal and shall become invalid after that date unless renewed. It shall be the duty of the secretary of the Board to notify, at his last registered address, every person registered under this act of the date of the expiration of his registration and the amount of fee which shall be required for its renewal for one year. Such notices shall be mailed at least 30 days in

advance of the expiration date of such registrations. The annual renewal fee for certificates shall be ten dollars ($10.00). The fee for issuance of replacement certificates of registration shall be five dollars ($5.00).

Any registration which has expired may be renewed by paying a fee of ten dollars ($10.00) plus one dollar ($1.00) per calendar month from the date of expiration. Charges above the renewal fee shall not exceed twenty dollars ($20.00).

Sec. 12. Examinations. When written examinations are required, they shall be held at such time and places in the State of North Carolina as the Board shall determine. The methods of procedure will be described by the Board. A candidate failing an examination may apply for re-examination at the expiration of six months and will be re-examined with payment of an additional fee of fifteen dollars ($15.00). Subsequent examinations will be granted upon payment of a fee of fifteen dollars ($15.00) for each examination.

Sec. 13. Revocations and reissuance of registration. The Board shall have the power to revoke or suspend the certificate of registration of any registrant who is found, by the Board, to be guilty of gross negligence, fraud, deceit or flagrant misconduct in the practice of forestry, or who is found by the Board to have demonstrated incompetence as a practicing forester. The Board is empowered to designate a person or persons to investigate and report to it upon any charges of fraud, deceit, gross negligence, incompetency or other misconduct in connection with any forestry practice against any registrant that may come to its attention.

Any person may prefer charges against any registrant. Such charges shall be in writing and shall be sworn to by the person making them and shall be filed with the secretary of the Board. The time and place for a hearing before the Board shall be fixed by the Board. At any hearing the accused may appear in person or by counsel. The Board may reissue a certificate of registration to any person whose certificate of registration has been revoked or suspended.

Sec. 14. Roster of registered foresters. A roster showing the names, registration numbers, and places of business residence of all registered foresters qualified according to the provisions of this act shall be prepared by the secretary of the Board during the month of July of each year. Copies of this roster shall be placed on file with the Secretary of State of North Carolina and each clerk of superior court in North Carolina. A copy shall be sent to each registrant, and copies may be furnished to the public upon request and upon payment of a fee to be set by the Board.

Sec. 15. Violation and penalties. Any person who, without being registered in accordance with the provisions of this act, shall use in connection with his name or otherwise assume, use or advertise any title or description tending to convey the impression that he is a registered forester; or any person who shall give any false or forged information of any kind to the Board or to any member thereof in obtaining a certificate of registration; or any person, firm, partnership or corporation who shall violate any of the provisions of this Article shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not more than fifty dollars ($50.00), or imprisoned not more than 30 days.

Sec. 16. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 10th day of June, 1975.

H. B. 515 **CHAPTER 532**

AN ACT TO PROVIDE FOR THE NOMINATION AND ELECTION OF MEMBERS OF THE BUNCOMBE COUNTY BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. The Buncombe County Board of Education shall consist of seven members who shall serve for terms of four years each, and, for purposes of electing members of said board, the Buncombe County School Administrative Unit shall consist of all of Buncombe County outside of and excluding the City of Asheville School Administrative Unit and shall include and is divided into seven districts bounded and described as follows:

District #1, A. C. Reynolds School Attendance Zone
District #2, T. C. Roberson School Attendance Zone
District #3, Enka School Attendance Zone
District #4, Clyde Erwin School Attendance Zone
District #5, North Buncombe School Attendance Zone
District #6, Charles D. Owen School Attendance Zone
District #7, Buncombe County School Administrative Unit at large.

Sec. 2. The terms of office of the present members of the Buncombe County Board of Education shall expire on the first Monday in December, 1976, when their successors are elected and qualified.

Sec. 3. In the primary election to be held in Buncombe County in 1976, there shall be conducted a nonpartisan primary election to narrow the field of candidates from each district to two candidates for membership on the Buncombe County Board of Education. If, when the filing period closes, there are no more than two candidates from a particular district, no primary shall be held for that district and the candidates shall be declared nominated for election to represent the particular district.

In the primary to be voted on at large by the eligible voters resident in the Buncombe County School Administrative Unit, the two candidates from each district receiving the highest number of votes shall be declared nominated for election to represent the particular district. In the general election to be held in 1976, the names of those candidates declared nominated without a primary and those candidates nominated in the primary shall be placed on the ballot, showing their candidacy for election in the particular districts in which they reside. The ballot shall permit each voter to vote for one candidate only to represent each of the seven districts and of the two nominees to represent each district the one receiving the greater number of votes shall be elected as the member of the Buncombe County Board of Education from that District. Of the candidates elected from each of the seven districts, the four candidates receiving the highest number of votes in the general election shall be elected to the Buncombe County Board of Education for a term of four years. The three candidates elected from the particular districts receiving the next highest number of votes shall be elected for a term of two years. Biennially thereafter, each candidate elected in the general election as herein provided for shall be elected for a term of four years.

Sec. 4. The members representing the various districts on the Buncombe County Board of Education shall be residents of these said districts and shall file with the County Board of Elections of Buncombe County a notice of candidacy which shall give the candidate's name, address, place of residence and a

statement that he desires to be a candidate for membership on the said Buncombe County Board of Education for the district in which he resides. The nomination and election of said members of said board of education shall be by nonpartisan election. The Board of Elections of Buncombe County shall prepare a separate ballot for the nomination and election of said members which shall, among other things, contain the name of the candidate, the school district that he desires to represent and shall not contain any reference to party affiliation in any manner or form. The candidates for membership on the Buncombe County Board of Education shall be voted on at large by the eligible voters resident in the Buncombe County School Administrative Unit, and the Board of Elections of Buncombe County shall canvass and judicially determine the results of said election and declare the members so elected. All persons so elected shall serve until their successors are elected and qualified, and any vacancy occurring on the Buncombe County Board of Education by death, resignation or by change of residency from the district from which any such person was elected, or otherwise shall be filled by the Senior Resident Superior Court Judge of Buncombe County for the unexpired term, but the person appointed to fill such vacancy must be from the same district as the person whose death, resignation or removal created the vacancy on the said Buncombe County Board of Education.

Sec. 5. Persons so elected to the Buncombe County Board of Education pursuant to this act shall take office on the first Monday in December next following their election.

Sec. 6. The Chairman of the Buncombe County Board of Education shall be compensated for his services on the board in the amount of one hundred dollars ($100.00) per month. The other members of the board shall receive fifty dollars ($50.00) per month as compensation.

Sec. 7. The election of said members of the Buncombe County Board of Education in the various primary and general elections as hereinabove provided for shall be governed by Chapter 163 of the General Statutes, relating to primaries and elections, insofar as the same may be applicable and not in conflict with the expressed terms of this act. The Buncombe County Board of Elections is hereby authorized and empowered to create any necessary precincts, to appoint any necessary election officials and to set up and establish all necessary books and records for the conduct of said elections.

Sec. 8. At the first meeting of the new Buncombe County Board of Education in December next following their election, the members of said board shall organize by electing one of their members as chairman for a period of one year, or until his successor is elected and qualified. The Chairman of the Buncombe County Board of Education shall preside at the meetings of the board, and in the event of his absence or sickness, the board may appoint one of their members temporary chairman.

Sec. 9. Chapter 274, 1967 Session Laws, is hereby repealed. All other laws in conflict with this act are hereby repealed.

Sec. 10. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of June, 1975.

H. B. 535 **CHAPTER 533**

AN ACT AUTHORIZING THE BURKE COUNTY PUBLIC SCHOOLS BOARD OF EDUCATION TO REGULATE TRAFFIC AND PARKING ON LANDS OWNED BY THE SAID BOARD.

The General Assembly of North Carolina enacts:

Section 1. Except as otherwise provided in this act all of the provisions of Chapter 20 of the General Statutes relating to the use of highways of the State and the operation of motor vehicles and other modes of transportation thereon are applicable to all streets, alleys, driveways, and parking lots belonging to or under the control of or in the possession of the Burke County Public Schools Board of Education. Nothing in this act modifies any rights of ownership or control of Burke County Public Schools Board of Education property, now or hereafter vested in the Burke County Public Schools Board of Education.

Sec. 2. The Burke County Public Schools Board of Education and each succeeding board, may by ordinance prohibit, regulate, divert, control, and limit pedestrian, animal, or vehicular traffic and other modes of conveyance on its campuses in Burke County, North Carolina, and may regulate the parking of motor vehicles and other modes of conveyance on said campuses. In fixing speed limits, the Burke County Public Schools Board of Education is not subject to G.S. 20-141(f1) or (g2), but may fix any speed limit reasonable and safe under the circumstances as conclusively determined by the Burke County Public Schools Board of Education. The board may not regulate traffic on streets open to the public as of right, except as specifically provided herein.

The Burke County Public Schools Board of Education, may by ordinance prohibit, regulate, divert, control and limit pedestrian, animal, vehicular traffic or other modes of conveyance on all areas of its campuses, including but not limited to driving ranges, athletic fields, practice fields, tennis courts, lawns, and undeveloped areas.

The Burke County Public Schools Board of Education may, by ordinance provide for the registration of motor vehicles maintained and operated on its campuses by any student, faculty member, or employee of the Burke County Public Schools Board of Education, and may fix fees for registration. The ordinance may make it unlawful for any person to operate an unregistered motor vehicle on the campus when the vehicle is required by the ordinance to be registered.

The Burke County Public Schools Board of Education may by ordinance set aside parking lots and other parking facilities on its campuses for use by students, faculty, and employees of the Burke County Public Schools Board of Education and members of the general public attending schools, conferences, athletic events, or meetings on said campuses, or other persons visiting, or making use of any Burke County Public School facility, or attending to official business with the Burke County Public Schools Board of Education. The Burke County Public Schools Board of Education may issue permits to park in such lots and may charge a fee therefor. The Burke County Public Schools Board of Education may also, by ordinance, make it unlawful for any person to park a motor vehicle or operate a motor vehicle or other mode of conveyance in any lot or other parking facility without procuring the requisite permit and displaying it on said vehicle or other mode of transportation.

The Burke County Public Schools Board of Education may, by ordinance, set aside spaces in designated parking areas or facilities in which motor vehicles may be parked for specified periods of time. To regulate parking in such spaces, the Burke County Public Schools Board of Education may install a system of parking meters and make it unlawful for any person to park a motor vehicle in a metered space without activating the meter for the entire time that the vehicle is parked, up to the maximum length of time allowed for that space. The Burke County Public Schools Board of Education may install gates, employ attendants, and use any other device or procedure to control traffic on its campuses, and to collect fees for using its parking areas and facilities.

The board may by ordinance provide for the issuance of stickers, decals, permits, or other indicia representing the registration status of vehicles or the eligibility of vehicles to park on the campus and may by ordinance prohibit the forgery, counterfeiting, unauthorized transfer, or unauthorized use of them.

Sec. 3. Violation of an ordinance adopted under any portion of this act is a misdemeanor punishable by a fine of not more than fifty dollars ($50.00) or imprisonment for not more than 30 days, in the discretion of the court. An ordinance may provide that certain acts prohibited thereby shall not be enforced by criminal sanctions, and in such cases a person committing any such act shall not be guilty of a misdemeanor.

Sec. 4. An ordinance adopted under any portion of this act may provide that violation subjects the offender to a civil penalty. Penalties may be graduated according to the seriousness of the offense or the number of prior offenses by the person charged. The Burke County Public Schools Board of Education may establish procedures for the collection of these penalties and they may be enforced by civil action in the nature of debt. The Burke County Public Schools Board of Education may also provide for appropriate administrative sanctions if an offender does not pay a validly due penalty or upon repeated offenses. Appropriate administrative sanctions include, but are not limited to, revocation of parking permits, termination or suspension of an enrollment in or employment by the Burke County Public Schools Board of Education.

Sec. 5. An ordinance adopted under any portion of this act may provide that any vehicle illegally parked may be removed to a storage area. The cost of any such removal constitutes a lien on the vehicle that may be enforced in the manner provided by law for enforcement of mechanics' and materialmen's liens.

Sec. 6. Evidence that a motor vehicle was found parked or unattended in violation of an ordinance of the Burke County Public Schools Board of Education is prima facie evidence that the vehicle was parked by:

(1) The person holding a Burke County Public Schools Board of Education parking permit for the vehicle, or

(2) If no Burke County Public Schools Board of Education parking permit has been issued for the vehicle, the person in whose name the vehicle is registered with the Burke County Public Schools Board of Education, or

(3) If no Burke County Public Schools Board of Education parking permit has been issued to the vehicle and the vehicle is not registered with the Burke County Public Schools Board of Education, the person in whose name it is registered with the North Carolina Department of Motor Vehicles, or the corresponding agency of another state or nation.

The rule of evidence established by this subsection applies only to civil, criminal, or administrative actions or proceedings concerning violations of ordinances of the board of education. G.S. 20-161.1 does not apply to such actions or proceedings.

Sec. 7. The Burke County Public Schools Board of Education shall cause to be published in the newspaper of general circulation in Burke County each ordinance and amendment thereto adopted by the board pursuant to this section, and shall cause the same to be made available or posted in at least one building on each campus of the Burke County School System.

All ordinances adopted pursuant to this section shall be recorded in the minutes of the Burke County Public Schools Board of Education and copies thereof shall be filed in the office of the Superintendent of the Burke County Public Schools Board of Education. The board shall provide for printing and distributing copies of its traffic, parking and other ordinances.

Sec. 8. Any monies that may be received pursuant to this section shall be placed in a trust account administered by the Burke County Public Schools Board of Education and may be used for the following purposes:

(1) To defray the cost of administering and enforcing ordinances adopted under this Part;

(2) To develop, maintain, and supervise parking areas and facilities.

Sec. 9. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of June, 1975.

H. B. 647 CHAPTER 534

AN ACT TO EXEMPT TRANSFERS OF PROPERTY TO THE UNITED STATES AND TO OTHER STATES FROM THE INHERITANCE TAX.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-3 is hereby amended by rewriting subsection (1) thereof to read as follows:

"(1) Property passing to or for the use of any one or more of the following: the United States, any state, territory or any political subdivision thereof, or the District of Columbia, for exclusively public purposes."

Sec. 2. All proposed and pending inheritance tax assessments by the North Carolina Department of Revenue on transfers covered by this act are hereby forgiven and abated.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of June, 1975.

H. B. 753

CHAPTER 535

AN ACT TO INCREASE THE INHERITANCE TAX EXEMPTION ACCORDED TO SERVICEMEN'S GROUP LIFE INSURANCE FROM TEN THOUSAND DOLLARS ($10,000) TO TWENTY THOUSAND DOLLARS ($20,000).

The General Assembly of North Carolina enacts:

Section 1. Article 1 of Chapter 105 of the General Statutes is hereby amended by deleting the words and figures "ten thousand dollars ($10,000)" appearing in line 34 of G.S. 105-3(4) as the same appears in the 1972 Replacement Volume 2D, and inserting in lieu thereof the words and figures, "twenty thousand dollars ($20,000)".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of June, 1975.

H. B. 828

CHAPTER 536

AN ACT DEFINING "FREEHOLDER" FOR SANITARY DISTRICT INCORPORATION PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-124 is hereby amended by adding at the end thereof a new sentence to read as follows:

"For purposes of a petition for incorporation of a proposed sanitary district filed by fifty-one percent (51%) or more of the freeholders of the proposed district, whether residents therein or not, the term 'freeholders' shall mean persons holding a deed to a tract of land within the proposed district, and also shall mean persons who have entered into a contract to purchase a tract of land within the proposed sanitary district, are making payments pursuant to such contract, and will receive a deed upon completion of the contractual payments. It is the intent of this amendment that the contracting purchaser, rather than the contracting seller, shall be deemed to be the freeholder."

Sec. 2. All laws and clauses of laws in conflict herewith are hereby repealed.

Sec. 3. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 10th day of June, 1975.

H. B. 876

CHAPTER 537

AN ACT TO AMEND CHAPTER 1184 OF THE SESSION LAWS OF 1949, AS AMENDED, THE CHARTER OF THE CITY OF RALEIGH WITH RESPECT TO COMMUNITY DEVELOPMENT PROGRAMS AND ACTIVITIES.

The General Assembly of North Carolina enacts:

Section 1. Section 22 of the Raleigh City Charter, Chapter 1184 of the 1949 Session Laws of North Carolina is hereby amended by adding a new subsection thereto, designated (77) and to appear as follows:

"*Community development programs and activities.*—(a) The City of Raleigh, through its governing body, is authorized to engage in, to accept federal and State grants and loans for, and to appropriate and expend funds for community development programs and activities. In undertaking community development programs and activities, in addition to other authority granted by law, the City of Raleigh may engage in the following activities:

(1) programs for the assistance and financing of rehabilitation of private buildings, including direct repair, the making of grants or loans, the subsidization of interest payments on loans, and the guaranty of loans, for: (a) the principal benefit of low and moderate income persons, or (b) the revitalization of deteriorating or deteriorated neighborhoods to attract persons of higher income, or (c) the restoration and preservation of properties or neighborhoods of special value for historic, architectural or esthetic reasons, or of special value to efforts to conserve, rehabilitate and enhance older segments of the community.

(2) programs concerned with employment, economic development, crime prevention, child care, health, drug abuse, education, and welfare needs of persons of low and moderate income.

(b) The City Council of the City of Raleigh may exercise directly those powers granted by law to municipal redevelopment commissions and those powers granted by law to municipal housing authorities. The city council may delegate to any redevelopment commission or to any housing authority the responsibility of undertaking or carrying out any specified community development activities. The City Council and the Board of County Commissioners of Wake County may by agreement undertake or carry out for each other any specified community development activities. The city council may contract with any person, association, or corporation in undertaking any specified community development activities. The County or City Board of Health, Wake County Board of Social Services, or the Board of Education of any unit within Wake County may by agreement undertake or carry out for the city council any specified community development activities.

(c) The City Council of the City of Raleigh in undertaking community development programs or activities may create one or more advisory committees to advise it and to make recommendations concerning such programs or activities.

(d) The City Council of the City of Raleigh in proposing to undertake any loan guaranty or similar program for rehabilitation of private buildings is authorized to submit to its voters the question whether such program shall be undertaken, such referendum to be conducted pursuant to the general and local laws applicable to special elections in the City of Raleigh.

(e) No property taxes shall be appropriated or expended by the City of Raleigh pursuant to this section for any purpose not expressly authorized by G.S. 160A-209, unless the same is first submitted to a vote of the people as therein provided."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of June, 1975.

H. B. 897 **CHAPTER 538**

AN ACT TO REWRITE ARTICLES 9 THROUGH 14 OF CHAPTER 54 OF THE GENERAL STATUTES RELATING TO CREDIT UNIONS.

The General Assembly of North Carolina enacts:

Section 1. Articles 9 through 14 of Chapter 54 of the General Statutes are hereby repealed and in lieu thereof there is hereby enacted the following Articles:

"ARTICLE 9.

"Formation of Credit Union.

"§ 54-74. *Definition and purposes.*—A credit union is a cooperative, nonprofit association, incorporated under this act, for the purposes of encouraging thrift among its members, creating a source of credit at a fair and reasonable rate of interest, and providing an opportunity for its members to use and control their own money in order to improve their economic and social condition.

"§ 54-75. *Organization procedure.*—(a) Any twelve or more residents of this State, of legal age, who have a common bond referred to in G.S. 54-78 may make application to organize a credit union and become charter members thereof by complying with this section.

(b) The subscribers shall execute in duplicate articles of incorporation and agree to the terms thereof, which articles shall state:

(1) The name, which shall include the words 'credit union' and which shall not be the same as that of any other existing credit union in this State, and the location where the proposed credit union is to have its principal place of business;

(2) That the existence of the credit union shall be perpetual;

(3) The par value of the shares of the credit union, which shall be in five dollar ($5.00) multiples, of not less than five dollars ($5.00), nor more than twenty-five dollars ($25.00);

(4) The names and addresses of the subscribers to the articles of incorporation, and the value of shares subscribed to by each, which shall be not less than five dollars ($5.00); and

(5) That the credit union may exercise such incidental powers as are necessary or requisite to enable it to carry on effectively the business for which it is incorporated, and those powers which are inherent in the credit union as a legal entity.

(c) The subscribers shall prepare and adopt bylaws for the general government of the credit union, consistent with this act, and execute the same in duplicate.

(d) They shall select at least five qualified persons who agree to serve on the board of directors, and at least three qualified persons who agree to serve on the supervisory committee. A signed agreement to serve in these capacities until the first annual meeting or until the election of their successors, whichever is later, shall be executed by those who so agree. This agreement shall be submitted to the administrator of credit unions.

(e) The subscribers shall forward the required charter fee and an investigation fee, as prescribed by the Credit Union Commission, and the articles of incorporation and the bylaws to the administrator of the credit union division. The administrator may issue a certificate of approval, if the articles and the bylaws are in conformity with this act and he is satisfied that the

proposed field of operation is favorable to the success of such credit union and that the standing of the proposed organizers is such as to give assurance that its affairs will be properly administered. He shall issue to the corporation a certificate of approval, annexed to a duplicate certificate of incorporation and of the bylaws, which certificate of approval, together with the attached duplicate certificate of incorporation, shall be recorded in the office of the register of deeds of the county in which the office of such credit union is situated, and upon recordation of the incorporators shall become and be a corporation for the purposes set forth in this Article. The register of deeds of the county in which such recordation is made shall charge the same fee for such recordation as he is now allowed to charge for handling and recording a certificate of incorporation of a corporation organized under the business corporation laws of this State. The application shall be acted upon within 30 days.

"§ 54-75.1. *Form of articles and bylaws.*—In order to simplify the organization of credit unions, the administrator of credit unions shall cause to be prepared a form of articles of incorporation and a form of bylaws, consistent with this act, which may be used by credit union incorporators for their guidance. Such articles of incorporation and bylaws shall provide:

(1) The name of corporation.

(2) The purposes for which it is formed.

(3) Qualifications for membership.

(4) The date of the annual meeting; the manner in which members shall be notified of meetings; the manner of conducting the meetings; the number of members which constitute a quorum at the meetings, and the regulations as to voting.

(5) The number of members of the board of directors, their powers and duties, and the compensation and duties of officers elected by the board of directors, and frequency of meetings.

(6) The number of members of the credit committee, if any, their powers and duties.

(7) The number of members of the supervisory committee, if any, their powers and duties.

(8) The par value of shares of capital stock.

(9) The conditions upon which shares may be issued, paid in, transferred, and withdrawn.

(10) The fines, if any, which shall be charged for failure to meet obligations to the corporation punctually.

(11) The conditions upon which deposits may be received and withdrawn. Whether the proposed corporation shall, in addition, have power to borrow funds.

(12) The manner in which the funds of the corporation shall be invested.

(13) The conditions upon which loans may be made and repaid.

(14) The maximum rate of interest that may be charged upon loans, not to exceed, however, the legal rate.

(15) The method of receipting for money paid on account of shares, deposits, or loans.

(16) The manner in which the reserve fund shall be accumulated.

(17) The manner in which dividends shall be determined and paid to members.

(18) The manner in which a voluntary dissolution of the corporation shall be effected.

(19) The manner in which the bylaws and articles of incorporation may be amended.

"§ 54-75.2. *Amendments.*—(a) The articles of incorporation or the bylaws may be amended as provided in the bylaws. Amendments to the articles of incorporation or bylaws shall be submitted to the administrator of credit unions who shall approve or disapprove the amendments within 60 days.

(b) Amendments shall become effective upon approval in writing by the administrator and no fee shall be charged for such approval.

"§ 54-75.3. *Use of name exclusive.*—With the exception of a credit union organized under the provisions of this act or of any other credit union act, or an association of credit unions or a recognized chapter thereof, any person, corporation, co-partnership or association using a name or title containing the words 'credit union' or any derivation thereof or representing themselves in their advertising or otherwise as conducting business as a credit union shall be guilty of a misdemeanor punishable by fine of not more than five hundred dollars ($500.00) or imprisoned not more than one year, or both, and may be permanently enjoined from using such words in its name.

"§ 54-75.4. *Office facilities.*—(a) A credit union may maintain service facilities at locations other than its main office if the maintenance of such offices is reasonably necessary to furnish service to its members, subject to the approval of the administrator of credit unions.

(b) A credit union may change its place of business within this State upon written notice to the credit union division. Such a change shall be recorded in the office of the register of deeds where its office was located, and a second duplicate in the office of the register of deeds of the county in which the new office is to be located, if same is changed to another county. If the change is from one location to another in the same county, then only the administrator of credit unions need be notified.

(c) A credit union may share office space with one or more credit unions and contract with any person or corporation to provide facilities or personnel.

"ARTICLE 10.

"Supervision and Regulation.

"§ 54-76. *Creation and supervision of division.*—There shall be established in the North Carolina Department of Commerce a credit union division which shall be under the supervision of administrator of credit unions appointed by the Secretary of Commerce. The credit union division and the administrator of credit unions shall be under the general direction and supervision of the Secretary of Commerce, and there shall be such assistants to the administrator of credit unions as may be necessary and the salaries of the administrator and assistants shall be fixed by the State Personnel Council.

"§ 54-76.1. *Duties of administrator.*—The duties of the administrator of credit unions shall be as follows:

(1) To organize and conduct in the State Department of Commerce, a bureau of information in regard to cooperative associations and rural and industrial credits.

(2) Upon request, to furnish, without cost, such printed information and blank forms as, in his discretion, may be necessary for the formation and establishment of any local credit union in the State.

(3) To maintain an educational campaign in the State looking to the promotion and organization of credit unions. Upon the written request of 12 bona fide residents of any particular locality in this State expressing a desire to form a local credit union at or in such locality, the administrator of credit unions, or one of his assistants, shall proceed as promptly as may be convenient to such locality and make an investigation in order that the administrator may determine whether or not a local credit union should be established according to the standards set forth and provided in this Article. The administrator shall notify the applicants of his decision within 30 days after receipt of the written request. Before refusing the establishment of a credit union, the administrator shall afford the applicants an opportunity to be heard therewith in person or by counsel and at least 60 days prior to the date set for a hearing on any such matter shall notify in writing the applicants of the date of said hearing and assign therein the grounds for the action contemplated to be taken and as to which inquiry shall be made on the date of such hearing. The determination of the administrator shall be subject to judicial review in all respects according to the provisions and procedures set forth in Article 33 of Chapter 143 of the General Statutes of North Carolina, as amended.

(4) To examine at least once a year, and oftener if such examination be deemed necessary by the administrator or his assistant, the credit unions formed under this Article. A report of such examination shall be filed with the State Department of Commerce, and a copy mailed to the credit union at its proper address.

(5) The administrator of credit unions is authorized, empowered, and directed to fix the amount of a blanket surety bond which shall be required of each credit union official, committee member and employee, irrespective of whether such official, committee member and employee receives, pays or has custody of money or other personal property owned by a credit union or in the custody or control of the credit union as collateral or otherwise. The surety on the bond shall be a surety company authorized to do business in North Carolina. Any such bond or bonds shall be in a form approved by the administrator of credit unions with a view to providing surety coverage to the credit union with reference to loss by reason of acts of fraud or dishonesty including forgery, theft, embezzlement, wrongful abstraction or misapplication on the part of the person, directly or through connivance with others, and such other surety coverages as the administrator of credit unions may determine to be reasonably appropriate or as elsewhere required by the Chapter. Any such bond or bonds shall be in an amount in relation to the money or other personal property involved or in relation to the assets of the credit union as the administrator may from time to time prescribe by regulation for the purpose of requiring reasonable coverage. The administrator may also approve the use of a form of excess coverage bond whereby a credit union may obtain an amount of coverage in excess of the basic surety coverage. No agreement, compromise or settlement of any claim or claims filed by a credit union with any surety or any surety company, for less than the full amount of said claim or claims, shall be entered into or made by the board of directors of any credit union unless and until the said claim or claims shall have been submitted to the administrator of credit unions and his advice thereon given or transmitted to the board of directors of said credit

union. The following schedule shall be deemed as the minimum fidelity and faithful performance bond requirements only:

Assets		Minimum Coverage
$ 0,000 to	$ 5,000	$ 1,000
5,001 to	10,000	2,000
10,001 to	20,000	4,000
20,001 to	30,000	6,000
30,001 to	40,000	8,000
40,001 to	50,000	10,000
50,001 to	75,000	15,000
75,001 to	100,000	20,000
100,001 to	200,000	30,000
200,001 to	300,000	40,000
300,001 to	400,000	50,000
400,001 to	500,000	70,000
500,001 to	750,000	85,000
750,001 to	1,000,000	100,000

Over one million dollars ($1,000,000) minimum amount, one hundred thousand dollars ($100,000) plus fifty thousand dollars ($50,000) for each additional million or fraction thereof of assets.

It shall be the duty of the board of directors of each credit union to provide proper protection to meet any circumstances by obtaining adequate bond (an insurance) coverage in excess of the above minimum schedule. The treasurer and all other persons handling credit union funds or records before entering upon his or their duties shall give a proper bond with good and sufficient surety, in an amount and character to be determined by the board in compliance with regulations conditioned upon the faithful performance of his or their trust.

The administrator may require additional coverage for any credit union when, in his opinion, the surety bonds in force are insufficient to provide adequate surety coverage, and it shall be the duty of the board of directors of any credit union to obtain such additional coverage within 60 days after the date of written notice by the administrator to such board of directors. For good cause shown, the administrator may extend the time to obtain additional coverage.

"§ 54-76.2. *Corporations organized hereunder subject to administrator of credit unions; rules and regulations.*-In addition to any and all other powers, duties and functions vested in the administrator of credit unions under the provisions of this Article, the administrator of credit unions shall have general control, management and supervision over all corporations organized under the provisions of this Article. All corporations organized under the provisions of this Article shall be subject to the management, control and supervision of the administrator of credit unions as to their conduct, organization, management, business practices and their financial and fiscal matters. The administrator of credit unions may prescribe rules and regulations for the administration of this Article, as well as rules and regulations relating to financial records, business practices and the conduct and management of credit unions, and it shall be the duty of the board of directors and of the various officers of the credit union to put into effect and to carry out such regulations.

"§ 54-76.3. *Revocation of certificate; liquidation.*—If any such corporation shall neglect to make its annual report, as provided in this Article, or any other report required by the administrator of credit unions for more than 15 days, or

shall fail to pay the charges required, including the fines for delay in filing reports, the administrator of credit unions shall give notice to such corporation of his intention to revoke the certificate of approval of the corporation for such neglect or failure, and if such neglect or failure continues for 15 days after such notice, the said administrator shall, at his discretion, personally or by an agent appointed by him, take possession of the property and business of the corporation and retain possession until such time as he may permit it to resume business, or until its affairs be finally liquidated as provided for in G.S. 54-96.

"§ 54-76.4. *Fees.*—(a) Each credit union subject to supervision and examination by the administrator of credit unions, including credit unions in process of voluntary liquidation, shall pay into the office of the administrator of credit unions twice each year, in the months of January and July, supervision and examination fees.

The administrator of credit unions, subject to the advice and consent of the credit union commission, shall, on or before December 1 of each year, determine and fix the scale of supervisory and examination fees to be assessed during the next calendar year. However, when the costs of any examination exceed the annual fees assessed and paid by the credit union, the administrator of credit unions may, in his discretion, invoke the provisions of G.S. 54-76.6, giving due consideration to the time and expense incident to such examination, and the ability of the credit union to pay such additional fees. The additional fees, if assessed by the administrator, in his discretion, shall be paid by each credit union promptly after the completion of the examination; provided that such additional fees shall not exceed the estimated cost of such examination.

No credit union shall be required to pay any supervisory fee until the expiration of 12 months from the date of the issuance of a certificate of incorporation to such credit union.

(b) Moneys collected under this section shall be deposited with the State Treasurer of North Carolina and expended, under the terms of the Executive Budget Act, to defray expenses incurred by the office of the administrator of credit unions in carrying out its supervisory and auditing functions.

(c) All revenue derived from fees will be placed into a special account to be administered solely for the operation of the credit union division.

"§ 54-76.5. *Reports.*—(a) Credit unions organized under this act shall, in January and in July of each year, make a report of condition to the administrator of credit unions on forms supplied by him for that purpose. Additional reports may be required.

(b) Any such corporation which neglects to make semiannual reports as provided in subsection (a) of this section, or any of the other reports required by the administrator of credit unions at the time fixed by the administrator, shall forfeit to the administrator of credit unions five dollars ($5.00) for each day such neglect continues; and, furthermore, the administrator of credit unions shall have authority, in his discretion, to revoke the certificate of incorporation and take possession of the assets and business of any corporation failing to pay the fees required in this section after serving notice of at least 15 days upon such corporation of his intention so to do.

"§ 54-76.6. *Annual examinations required; payment of cost.*—The administrator of credit unions shall cause every such corporation to be examined once a year and whenever he deems it necessary. The examiners appointed by him shall be given free access to all books, papers, securities, and other sources of

information in respect to the corporation; and for the purpose of such examination the administrator shall have power and authority to subpoena and examine personally, or by one of his deputies or examiners, witnesses on oath and documents, whether such witnesses are members of the corporation or not, and whether such documents are documents of the corporation or not. Whenever the cost of making the annual examination exceeds the annual fees paid by the credit union to the State, the administrator may charge the credit union the cost per day, per man for each day required to complete the examination. The administrator may designate an independent auditing firm to do the work under his direction and supervision, with the cost to be paid by the credit union involved.

"§ 54-76.7. *Records.*—(a) A credit union shall maintain all books, records, accounting systems and procedures in accordance with such rules as the administrator from time to time prescribes. In prescribing such rules, the administrator shall consider the relative size of a credit union and its reasonable capability of compliance.

(b) A credit union is not liable for destroying records after the expiration of the record retention time prescribed by the administrator.

(c) A photostatic or photographic reproduction of any credit union records shall be admissible as evidence of transactions with the credit union.

"ARTICLE 11.

"Powers of Credit Union.

"§ 54-77. *General powers.*—A credit union may:

(1) Make contracts;

(2) Sue and be sued;

(3) Adopt and use a common seal and alter same;

(4) Acquire, lease, hold and dispose of property, either in whole or in part, necessary or incidental to its operations;

(5) At the discretion of the board of directors, require the payment of an entrance fee or annual membership fee, or both, of any person admitted to membership;

(6) Receive savings from its members in the form of shares, deposits, or special-purpose thrift accounts;

(7) Lend its funds to its members as hereinafter provided;

(8) Borrow from any source in accordance with policy established by the board of directors;

(9) Discount and sell any eligible obligations, subject to rules and regulations prescribed by the administrator;

(10) Sell all or substantially all of its assets or purchase all or substantially all of the assets of another financial institution, subject to the approval of the administrator of credit unions;

(11) Invest surplus funds as provided in this act;

(12) Make deposits in legally chartered banks, savings banks, savings and loan associations, trust companies and central-type credit union organizations;

(13) Assess charges to members in accordance with the bylaws for failure to meet properly their obligations to the credit union;

(14) Hold membership in other credit unions organized under this act or other acts, and in other associations and organizations composed of credit unions;

(15) Declare dividends; pay interest on deposits and pay interest refunds to borrowers as provided in this act;

(16) Sell travelers checks and money orders and charge a reasonable fee for such services, provided the instruments are payable at institutions other than a credit union.

(17) Perform such tasks and missions as are requested by the federal government or this State or any agency or political subdivision thereof, when approved by the board of directors and not inconsistent with this act;

(18) Act as fiscal agent for and receive deposits from the federal government, this State, or any agency or political subdivision thereof;

(19) Contribute to, support, or participate in any nonprofit service facility whose services will benefit the credit union or its membership subject to such regulations as are prescribed by the administrator;

(20) Make donations or contributions to any civic, charitable or community organization as authorized by the board of directors, subject to such regulations as are prescribed by the administrator;

(21) Act as a custodian of qualified pension funds if permitted by federal law;

(22) Purchase or make available insurance for its directors, officers, agents, employees, and members; and

(23) Facilitate its members' purchase of goods and services in a manner which promotes the purposes of the credit union.

(24) The board of directors may expel from the corporation any member who has not carried out his engagement with the corporation, or has been convicted of a criminal offense, or neglects or refuses to comply with the provisions of this Article or of the bylaws, or who habitually neglects to pay his debts, or shall become insolvent or bankrupt. The members at a regularly called meeting may expel from the corporation any member who has become intemperate or in any way financially irresponsible; no member shall be expelled until he has been informed in writing of the charges against him and an opportunity has been given him, after reasonable notice, to be heard thereon.

A member may withdraw from a credit union by filing a written notice of his intention to withdraw.

The amounts paid in on shares or deposits by an expelled or withdrawing member, with any dividends credited to his shares and any interest accrued on his deposits to the date of expulsion or withdrawal shall be paid to such member, but in the order of expulsion or withdrawal, and only as funds therefor become available, after deducting any amounts due to the corporation by such member. The member shall have no other or further right in the credit union or to any of its benefits, but such expulsion or withdrawal shall not operate to relieve the member from any remaining liability to the corporation.

"§ 54-77.1. *Incidental powers.*—A credit union may exercise such incidental powers such as are necessary or requisite to enable it to promote and carry on most effectively its purposes.

"ARTICLE 11A.

"Membership.

"§ 54-78. *Membership defined.*—(a) The membership of a credit union shall be limited to and consist of the subscribers to the articles of incorporation and such other persons within the common bond set forth in the bylaws as have been duly admitted members, have paid any required entrance fee or membership fee, or both, have subscribed for one or more shares, and have paid the initial

installment thereon, and have complied with such other requirements as the articles of incorporation or bylaws specify.

(b) Credit union membership may include groups having a common bond of similar occupation, association or interest, or groups who reside within an identifiable neighborhood, community, or rural district, or employees of a common employer, and members of the immediate family of such persons.

"§ 54-78.1. *Societies, association.*—Societies, and co-partnerships composed primarily of individuals who are eligible to membership, and corporations whose stockholders are composed primarily of such individuals, may be admitted to membership in the same manner and under the same conditions as individuals, but may not borrow in excess of their shareholdings.

"§ 54-78.2 *Other credit unions.*—Any credit union organized under this act may permit membership of any other credit union organized under this act or other acts.

"§ 54-78.3. *Members who leave field.*—Members who leave the field of membership may be permitted to retain their membership in the credit union as a matter of general policy of the board of directors.

"§ 54-79. *Liability of shareholders.*—A shareholder of any such corporation, unless the bylaws so provide, shall not be individually liable for the payment of its debts for an amount in excess of the par value of the shares which he owns or for which he has subscribed.

"§ 54-80. *Meetings of members.*—(a) The annual meeting and any special meetings of the members of the credit union shall be held at the time, place, and in the manner indicated by the bylaws.

(b) At all such meetings, a member shall have but one vote, irrespective of his shareholdings. No member may vote by proxy, but a member may vote by absentee ballot if the bylaws of the credit union so provide.

(c) A society, association, co-partnership or corporation having membership in the credit union may be represented and have its vote cast by one of its members or shareholders, provided such person has been fully authorized by the organization's governing body.

(d) The board of directors may establish a minimum age of 16 years of age as a qualification to vote at meetings of the members.

(e) The board of directors may establish a minimum age of 18 years of age as a qualification to hold office.

"ARTICLE 11B.

"Direction of Affairs.

"§ 54-81. *Election or appointment of officials.*—(a) The credit union shall be directed by a board of directors, at least five in number, to be elected at the annual members' meeting by and from the members. All members of the board shall hold office for such terms as the bylaws provide.

(b) The board of directors at its first meeting after its election shall appoint a supervisory committee from the membership (no more than one of whom may be a member of the board of directors and none a member of the credit committee) of not less than three members who shall serve for such terms as may be fixed by the bylaws; or in lieu thereof, the bylaws may authorize the board of directors to employ and use such clerical and auditing assistants as may be required to perform the duties required by G.S. 54-86. The board of directors may remove or suspend any member of the supervisory committee for neglect of

duty, misfeasance, malfeasance, official misconduct, or for other good cause shown.

(c) The board of directors shall appoint a credit committee from the membership consisting of an odd number, not less than three, for such terms as the bylaws provide or, in lieu of a credit committee, appoint one or more loan officers from the membership and, in such instances, duties and responsibilities of the credit committee shall be carried out by such loan officer or officers.

"§ 54-81.1. *Record of board and committee members.*—Within 15 days following the board of directors' initial or annual organization meeting, a record of the names and addresses of the members of the board, committees and all other officers of the credit union shall be filed with the credit union division on forms provided by that division.

"§ 54-81.2. *Vacancies.*—The board of directors shall fill any vacancies occurring in the board until successors elected at the next annual meeting have qualified. The board shall also fill vacancies in the credit and supervisory committees.

"§ 54-81.3. *Compensation of officials.*—No member of the board of directors or of the credit committee or supervisory committee shall be compensated for his service in this position, but providing reasonable life, health, accident and similar insurance protection for a director or committee member shall not be considered compensation. Directors and committee members, while on official business of the credit union, may be reimbursed for necessary expenses incidental to the performance of the business.

"§ 54-81.4. *Conflicts of interest.*—No director, committee member, officer, agent or employee of the credit union shall in any manner, directly or indirectly, participate in the deliberation upon or the determination of any question affecting his pecuniary interest or the pecuniary interest of any corporation, partnership, or association (other than the credit union) in which he is directly or indirectly interested.

"§ 54-82. *Executive officers.*—(a) At their organization meeting and within 30 days following each annual meeting of the members, the directors shall elect from their own number an executive officer, who may be designated as chairman of the board or president; a vice-chairman of the board or one or more vice presidents; a treasurer; and a secretary. The treasurer and the secretary may be the same individual. The persons so elected shall be the executive officers of the corporation.

(b) The terms of the officers shall be one year, or until their successors are chosen and have duly qualified.

(c) The duties of the officers shall be prescribed in the bylaws.

(d) The board of directors may employ an officer in charge of operations whose title shall be either president and/or general manager; or, in lieu thereof, the board of directors may designate the treasurer or an assistant treasurer to act as general manager and be in active charge of the affairs of the credit union.

"§ 54-83. *Authority of directors.*—The board of directors shall have the general direction of the business affairs, funds, and records of the credit union.

"§ 54-83.1. *Executive committee.*—From the persons elected to the board, the board may appoint an executive committee of not less than three directors who may be authorized to act for the board in all respects, subject to such conditions and limitations as are prescribed by the board.

"§ 54-84. *Meetings of directors.*—The board of directors and the executive committee shall meet as often as the bylaws prescribe.

"§ 54-84.1. *Duties of directors.*—It shall be the duty of the directors to:

(1) Act upon applications for membership or to appoint one or more membership officers to approve applications for membership under such conditions as the board prescribes. A record of a membership officer's approval or denial of membership shall be available to the board of directors for inspection. A person denied membership by a membership officer may appeal the denial to the board;

(2) Purchase a blanket fidelity bond, in accordance with any rules and regulations of the administrator, to protect the credit union against losses caused by occurrences covered therein such as fraud, dishonesty, forgery, embezzlement, misappropriation, misapplication, or unfaithful performance of duty by a director, officer, employee, member of an official committee, attorney-at-law or other agent;

(3) Determine from time to time the interest rate or rates consistent with this act, which shall be charged on loans and to authorize interest refunds, if any, to members from income earned and received in proportion to the interest paid by them on such classes of loans and under such conditions as the board prescribes;

(4) Fix from time to time the maximum amount which may be loaned to any one member;

(5) Declare dividends on shares in the manner and form as provided in the bylaws; and determine the interest rate or rates which will be paid on deposits;

(6) Set the number of shares and the amount of deposits which may be owned by a member, such limitations to apply alike to all members;

(7) Have charge of the investment of surplus funds, except that the board of directors may designate an investment committee or any qualified individual to have charge of making investments under controls established by the board of directors;

(8) Authorize the employment of such persons necessary to carry on the business of the credit union;

(9) Authorize the conveyance of property;

(10) Borrow or lend money to carry on the functions of the credit union;

(11) Designate a depository or depositories for the funds of the credit union;

(12) Suspend any or all members of the credit or supervisory committee for failure to perform their duties;

(13) Appoint any special committees deemed necessary; and

(14) Perform such other duties as the members from time to time direct, and perform or authorize any action not inconsistent with this act and not specifically reserved by the bylaws for the members.

"§ 54-85. *Authority of credit committee.*—The credit committee shall have the general supervision of all loans to members.

"§ 54-85.1. *Meetings of credit committee.*—The credit committee shall meet as often as the business of the credit union requires and not less frequently than once a month to consider applications for loans. No loan shall be made unless it is approved by a majority of the committee who are present at the meeting at which the application is considered.

"§ 54-85.2. *Loan officers.*—(a) The credit committee may appoint one or more loan officers and delegate the power to approve loans, subject to such limitations or conditions as the credit committee prescribes.

(b) Loan applications not approved by a loan officer shall be reviewed and acted upon by the credit committee.

"§ 54-85.3. *Loan officer.*—The credit committee may be dispensed with, and loan officer(s) empowered to approve or disapprove loans under conditions prescribed by the board of directors. In the event the credit committee is dispensed with, the procedures prescribed in G.S. 54-85, G.S. 54-85.1 and G.S. 54-85.2 do not apply, and no loans shall be made unless approved by the loan officer(s).

"§ 54-86. *Duties of supervisory committee.*—The supervisory committee shall make or cause to be made an annual audit, in accordance with rules and regulations promulgated by the administrator of credit unions, and shall submit a report of that audit to the board of directors and a summary of the report to the members at the next annual meeting of the credit union. The supervisory committee shall make or cause to be made such supplemental audits as deemed necessary by it or as may be ordered by the administrator of credit unions. Any violation of this Article or of the bylaws or of any practice of the corporation which in the opinion of the supervisory committee is unsafe, unsound, or unauthorized, shall be reported to the board of directors and the administrator of credit unions within seven days after its discovery.

"ARTICLE 11C.

"Savings Accounts.

"§ 54-87. *Shares.*—(a) The capital of a credit union consists of the payments made by members on shares, undivided surplus, and reserves.

(b) Shares may be subscribed to, paid for and transferred in such manner as the bylaws prescribed.

(c) A certificate need not be issued to denote ownership of a share in a credit union.

"§ 54-88. *Dividends.*—The board of directors of any credit union may declare dividends as its bylaws provide. Dividends shall be paid on fully paid shares outstanding at the close of the accounting period, but shares which become fully paid by the tenth of any month of the period may be entitled to a proportional part of such dividend, calculated from the first day of the month.

"§ 54-89. *Deposits.*—A credit union may receive on deposit the savings of its members and also nonmembers in such amounts and upon such terms as the board of directors may determine and the bylaws shall provide.

"§ 54-89.1. *Thrift accounts.*—Christmas clubs, vacation clubs, and other thrift accounts may be operated under conditions established by the board of directors.

"§ 54-89.2. *Shares and deposits for minors and in trust.*—Shares may be issued and deposits received in the name of a minor, and such shares and deposits may, in the discretion of the directors, be withdrawn by such minor or his parent or guardian, and in either case payments made on such withdrawals shall be valid. If shares are held or deposits made in trust, the name and residence of the beneficiary shall be disclosed and the account shall be kept in the name of such holder as trustee for such person. Such shares or deposits may, upon the death of the trustee, be withdrawn by the person for whom the shares were held or for whom such deposits were made, or by his legal representatives.

"§ 54-89.3. *Joint accounts.*—(a) A member may designate any person or persons to hold shares, deposits and thrift club accounts with him in joint tenancy with the right of survivorship, but no joint tenant, unless a member in his own right, shall be permitted to vote, obtain loans, or hold office or be required to pay an entrance or membership fee.

(b) Payment of part or all of such accounts to any of the joint tenants shall, to the extent of such payment, discharge the liability to all.

"§ 54-89.4. *Liens.*—The credit union shall have a lien on the shares, deposits and accumulated dividends or interest of a member in his individual, joint or trust account, for any sum past due the credit union from said member or for any loan endorsed by him.

"§ 54-89.5. *Dormant accounts.*—(a) If a credit union member's account be without activity for a period of two years, the account may be declared dormant and 60 days subsequent to written notification to the member, which would be by statement or letter, be transferred to the reserve fund of the credit union.

(b) The member may reclaim any such sums by proper judicial proceedings commenced within 10 years after such action of the board of directors.

(c) This section does not apply to shares, deposits, accounts, dividends, interest and other sums due to or standing in the name of two or more persons unless the credit union is unable to contact any of such persons in the manner and during the period specified in subsection (a).

"§ 54-89.6. *Reduction in shares.*—(a) Whenever the losses of any credit union, resulting from a depreciation in value of its loans or investments or otherwise, exceed its undivided earnings and reserve fund so that the estimated value of its assets is less than the total amount due the shareholders, the credit union may by a majority vote of the members present at a special meeting called for that purpose order a reduction in the shares of each of its shareholders to divide the loss proportionately among the members.

(b) If the credit union thereafter realizes from such assets a greater amount than was fixed by the order of reduction, such excess shall be divided proportionately among the shareholders whose assets were reduced, but only to the extent of such reduction.

"ARTICLE 11D.

"Loans.

"§ 54-90. *Purposes, terms and interest rate.*—A credit union may loan to its members for such purpose and upon such security and terms as the board of directors prescribe, at rates of interest not exceeding twelve (12%) annual percentage rate, unless a greater rate not to exceed eighteen (18%) annual percentage rate is otherwise approved by the credit union commission. Such action by the commission will be uniform and apply to all credit unions.

The term 'interest', as used in this section, shall not be deemed to include charges made by a credit union for appraisals of real or personal property; attorneys' fees for searching title to real property, preparing notes, deeds of trust, mortgages and closing loans; and recording fees. Rate of interest and terms of repayment shall appear on each note but the corporation may, for the purpose of making loans, discount and negotiate promissory notes and deduct in advance, from the proceeds of such loan, interest at a rate not to exceed the rate herein fixed, which shall be the legal rate for corporations organized under this Article, and such deductions shall be made upon the amount of the loan from the date

thereof until the maturity of the final installment, notwithstanding that the principal amount of such loan is required to be repaid in such installments.

"§ 54-90.1. *Application.*—Every application for a loan shall be made in writing upon a form, which the board of directors prescribe. The application shall state the purpose for which the loan is desired, and the security, if any, offered. Each loan shall be evidenced by a written document.

"§ 54-90.2. *Loan limit.*—No loan shall be made to any member in an aggregate amount in excess of two hundred dollars ($200.00), or ten percent (10%) of the credit union's unimpaired capital and surplus, whichever is greater, provided that no unsecured loan shall be greater than five thousand dollars ($5,000).

"§ 54-90.3. *Security.*—In addition to generally accepted types of security, the endorsement of a note by a surety, co-maker or guarantor, or assignment of shares, in a manner consistent with the laws of this State, shall be deemed security within the meaning of this act. The adequacy of any security shall be determined by the board of directors subject to this act and the bylaws.

"§ 54-90.4. *Installments.*—A member may receive a loan in installments, or in one sum, and may pay the whole or any part of his loan on any day on which the office of the credit union is open for business.

"§ 54-90.5. *Line of credit.*—A line of credit and advances may be granted to each member within guidelines established by the board of directors. Where a line of credit has been approved, no additional loan applications are required as long as the aggregate obligation does not exceed the limit of such line of credit.

"§ 54-90.6. *Other loan programs.*—(a) A credit union may participate in loans to credit union members jointly with other credit unions, corporations, or financial organizations.

(b) A credit union may participate in guaranteed loan programs of the federal and State government.

(c) A credit union may purchase the conditional sales contracts, notes and similar instruments of its members.

"ARTICLE 11E.

"Insurance and Group Purchasing.

"§ 54-91. *Insurance for members.*—(a) A credit union may purchase or make available insurance for its members in amounts related to their respective ages, shares, deposits or loan balances or to any combination of them.

(b) A credit union may enter into cooperative marketing arrangements to facilitate its members' voluntary purchase of insurance including, but not by way of limitation, life insurance, disability insurance, accident and health insurance, property insurance, liability insurance, and legal expense insurance.

"§ 54-91.1. *Liability insurance for officers.*—A credit union may purchase and maintain liability insurance on behalf of any person who is or was a director, officer, employee, or agent of the credit union, or who is or was serving at the request of the credit union as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against such person and incurred by such person in any such capacity or arising out of such person's status as such, whether or not the credit union would have the power to indemnify such person against such liability.

"§ 54-91.2. *Group purchasing.*—A credit union may enter into cooperative marketing arrangements to facilitate its members' voluntary purchase of such

goods and services as are in the interest of improving economic and social conditions of the members.

"§ 54-92. *Share and deposit insurance.*—(a) All credit unions established under this Chapter shall, no later than July 1, 1976, apply for insurance of member share and deposit accounts from any mutual deposit guaranty association which qualifies under Article 7A of Chapter 54 of the General Statutes (Mutual Deposit Guaranty Associations), or from the National Credit Union Administration under the Federal Credit Union Act. All such credit unions shall, on or before January 1, 1977, obtain and thereafter maintain the above mentioned insurance. A credit union which is unable to obtain a commitment for insurance of the share and deposit accounts within the time limit specified above shall be dissolved by action of the administrator of credit unions or permitted to merge with another credit union. Provided, the administrator may grant additional time to obtain the insurance commitment, upon satisfactory evidence that the credit union has made or is making a substantial effort to achieve the conditions precedent to issuance of the commitment. Granting of additional time or times to obtain the insurance commitment shall not extend later than January 1, 1978.

(b) All credit unions chartered under this act after ratification shall apply for and obtain insurance as a condition to granting the Charter.

"ARTICLE 12.

"Investments.

"§ 54-93. *Investment of funds.*—The capital, deposits, undivided profits and reserve fund of the corporation may be invested in any of the following ways, and in such ways only:

(1) They may be lent to the members of the corporation in accordance with the provisions of this Chapter.

(2) In capital shares, obligations, or preferred stock issues of any agency or association organized either as a stock company, mutual association, or membership corporation, provided the membership or stockholdings, as the case may be, of such agency or association are confined or restricted to credit unions or organizations of credit unions, or provided the purposes for which such agency or association is organized or designed to service or otherwise assist credit union operations.

(3) In obligations of the State of North Carolina or any subdivision thereof.

(4) In obligations of the United States, including bonds and securities upon which payment of principal and interest is fully guaranteed by the United States.

(5) They may be deposited to the credit of the corporation in savings banks, credit unions, savings and loan associations, State banks or trust companies incorporated under the laws of the State, or in national banks located therein.

(6) In loans to other credit unions in any amount not to exceed twenty-five percent (25%) of the shares and unimpaired surplus of the lending credit union.

(7) In an aggregate amount not to exceed twenty-five percent (25%) of the allocations to the reserve fund in any agency or association of the type described in subdivision (2) hereof, provided the purposes of any such agency or association are designed to assist in establishing and maintaining liquidity, solvency, and security in credit union operations.

(8) In the North Carolina Savings Guaranty Corporation.

(9) They may be placed on time deposits in any banks insured by the Federal Deposit Insurance Corporation or may be deposited or may be invested in any savings or building and loan association insured by the Federal Savings and Loan Insurance Corporation.

(10) Debentures which are issued by an agency of the United States Government.

"ARTICLE 13.

"Reserve Allocations.

"§ 54-94. *Transfers to regular reserve.*—(a) Immediately before the payment of each dividend, but more often if the board of directors so determine, the gross earnings of the credit union shall be determined. From this amount, there shall be set aside sums as a regular reserve in accordance with the following schedule:

(1) Ten percent (10%) of gross income until the regular reserve shall equal seven and one-half percentum (7 1/2%) of the total of outstanding loans and risk assets, then

(2) Five percentum (5%) of gross income until the regular reserve shall equal ten percentum (10%) of the total of outstanding loans and risk assets.

(b) Subsequent to attainment of the reserve goals of ten percentum (10%) or seven and one-half percentum (7 1/2%) of the total of outstanding loans and risk assets, as the case may be, the regular reserve shall be replenished by regular contributions in such amounts as may be needed to maintain the reserve goals of seven and one-half percentum (7 1/2%) or ten percentum (10%).

(c) In addition to such regular reserve, special reserves to protect the interests of members shall be established;

(1) when required by regulations; or

(2) when found by the administrator, in any special case, to be necessary for that purpose.

(d) Nothing in this section shall be construed as limiting the amount that a credit union may set apart to its reserve fund.

"§ 54-94.1. *Use of regular reserve.*—The regular reserve shall belong to the credit union and shall be used to meet losses except those resulting from an excess of expenses over income and shall not be distributed except on liquidation of the credit union, or in accordance with a plan approved by the administrator of credit unions.

"§ 54-94.2. *Risk assets defined.*—For the purpose of establishing the reserves required by G.S. 54-94, all assets except the following shall be considered risk assets:

(1) Cash on hand.

(2) Deposits and shares in federal or state banks, savings and loan associations, and credit unions.

(3) Assets which are issued by, fully guaranteed as to principal and interest by, or due from the U. S. Government, its agencies, the Federal National Mortgage Association, or the Government National Mortgage Association.

(4) Loans to other credit unions.

(5) Loans to students insured under the provision of Title IV, Part B of the Higher Education Act of 1965 (20 U.S.C. 1071, *et seq.*) or similar state insurance programs.

(6) Loans insured under Title I of the National Housing Act (12 U.S.C. 1703) by the Federal Housing Administration.

(7) Shares or deposits in central credit unions organized under Article 12 of this Chapter of any other state act or of the Federal Credit Union Act.

(8) Common trust investments which deal in investments authorized by this act.

(9) Prepaid expenses.

(10) Accrued interest on nonrisk investments.

(11) Furniture and equipment.

(12) Land and buildings.

(13) Loans secured by shares.

(14) Deposits in mutual savings guaranty associations which qualify under Article 7A of Chapter 54 of the General Statutes.

"ARTICLE 14.

"Change in Corporate Status.

"§ 54-95. *Suspension.*—(a) If it appears that any credit union is bankrupt or insolvent, or that it has willfully violated this act, or is operating in an unsafe or unsound manner, the administrator of credit unions shall issue an order temporarily suspending the credit union's operations for not more than 90 days. The board of directors shall be given notice by registered mail of such suspension, which notice shall include a list of the reasons for such suspension, and/or a list of the specific violations of this act. The administrator of credit unions shall also notify the members of the credit union commission of any suspension.

(b) Upon receipt of such suspension notice, the credit union shall cease all operations, except those authorized by the administrator. The board of directors shall then file with the administrator a reply to the suspension notice, and may request a hearing to present a plan of corrective actions proposed if it desires to continue operations. The board may request that the credit union be declared insolvent and a liquidating agent be appointed.

(c) Upon receipt from the suspended credit union of evidence that the conditions causing the order of suspension have been corrected, the administrator may revoke the suspension notice, permit the credit union to resume normal operations, and notify the commission of such action.

(d) If the administrator, after issuing notice of suspension and providing an opportunity for a hearing, rejects the credit union's plan to continue operations, he may issue a notice of involuntary liquidation and appoint a liquidating agent. The credit union may request the appropriate court to stay execution of such action. Involuntary liquidation may not be ordered prior to the conclusion of suspension procedures outlined in this section.

(e) If, within the suspension period, the credit union fails to answer the suspension notice or request a hearing, the administrator may then revoke the credit union's charter, appoint a liquidating agent and liquidate the credit union.

"§ 54-96. *Liquidation.*—(a) A credit union may elect to dissolve voluntarily and liquidate its affairs in the manner prescribed in this section.

(b) The board of directors shall adopt a resolution recommending the credit union be dissolved voluntarily, and directing that the question of liquidation be submitted to the members.

(c) Within 10 days after the board of directors decides to submit the question of liquidation to the members, the president shall notify the administrator of credit unions thereof in writing, setting forth the reasons for the proposed

action. Within 10 days after the members act on the question of liquidation, the president shall notify the administrator in writing as to whether or not the members approved the proposed liquidation.

(d) As soon as the board of directors decides to submit the question of liquidation to the members, payment on shares, withdrawal of shares, making any transfer of shares to loans and interest, making investments of any kind, and granting loans shall be suspended pending action by members on the proposal to liquidate. On approval by the members of such proposal, all such business transactions shall be permanently discontinued. Necessary expenses of operation shall, however, continue to be paid on authorization of the board of directors or liquidating agent during the period of liquidation.

(e) For a credit union to enter voluntary liquidation, approval by a majority of the members in writing or by a two-thirds majority of the members present at a regular or special meeting of the members is required. Where authorization for liquidation is to be obtained at a meeting of the members, notice in writing shall be given to each member, by first class mail, at least 10 days prior to such meeting.

(f) A liquidating credit union shall continue in existence for the purpose of discharging its debts, collecting and distributing its assets, and doing all acts required in order to wind up its business and may sue and be sued for the purpose of enforcing such debts and obligations until its affairs are fully adjusted.

(g) The board of directors or the liquidating agent shall use the assets of the credit union to pay: first, expenses incidental to liquidating including any surety bond that may be required; second, any liability due nonmembers; third, deposits and special purpose thrift accounts as provided in this act. Assets then remaining shall be distributed to the members proportionately to the shares held by each member as of the date dissolution was voted.

(h) As soon as the board of directors or the liquidating agent determines that all assets from which there is a reasonable expectancy of realization have been liquidated and distributed as set forth in this section, the administrator of credit unions shall issue to such corporation, in duplicate, a certificate of dissolution which shall be filed by the corporation in the office of the register of deeds of the county in which the corporation has its place of business. The corporation shall then be dissolved and its certificate of incorporation revoked. All pertinent books and records of the liquidating credit union shall be retained by the liquidating agent and/or filed with the credit union division and kept for a minimum period not to exceed five years. The liquidating agent's fee, if any, shall be set by the administrator of credit unions.

"§ 54-97. *Merger.*—Any credit union may, with the approval of the administrator of credit unions, merge with another credit union subject to the rules and regulations set forth by the administrator of credit unions.

"§ 54-98. *Conversion of Charter.*—(a) A credit union chartered under the laws of this State may be converted to a credit union chartered under the laws of any other state or under the laws of the United States, subject to regulations issued by the administrator of the credit union division.

(b) A credit union chartered under the laws of the United States or of any other state may convert to a credit union chartered under the laws of this State. To effect such a conversion, a credit union must comply with all the requirements of the jurisdiction under which it was originally chartered and the

requirements of the administrator of credit unions and file proof of such compliance with said administrator.

"ARTICLE 14A.

"Taxation.

"§ 54-99. *Restriction of taxation.*—The corporation shall be deemed an institution for savings, and together with all accumulations therein shall not be taxable under any law which shall exempt building and loan associations or institutions for savings from taxation; nor shall any law passed taxing corporations in any form, or the shares thereof, or the accumulations therein, be deemed to include corporations doing business in pursuance of the provisions of this Article, unless they are specifically named in such law. The shares of credit unions, being hereby regarded as a system for saving, shall not be subject to any stock-transfer tax either when issued by the corporation or transferred from one member to another."

Sec. 2. G.S. 54-110(g), as the same appears in Volume 2B of the General Statutes, is amended by striking "Section 54-84" from line 1 thereof and substituting in lieu thereof "Section 54-77".

Sec. 3. G.S. 54-110(i), as the same appears in the 1974 Cumulative Supplement to Volume 2B of the General Statutes, is amended by striking "G.S. 54-86(6)" in line 1 thereof and substituting "G.S. 54-93.6".

Sec. 4. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 10th day of June, 1975.

H. B. 934 CHAPTER 539

AN ACT TO PROHIBIT THE TAKING OF GAME FROM PUBLIC ROADS AND HIGHWAYS IN DURHAM COUNTY, ORANGE COUNTY AND A PART OF RICHMOND COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It shall be unlawful for any person to hunt, take or kill any species of birds, animals or beasts, or attempt to hunt, take or kill any species of birds, animals or beasts by the use of firearms from the roadway or right-of-way of public roads and highways in Durham County, Orange County and from the right-of-way of any public road located in that part of Richmond County which is bounded on the south by U.S. Highway No. 74 and on the east by U.S. Highway No. 220.

Sec. 2. Any person, association of persons, or any firm or corporation violating the provisions of this act shall be guilty of a misdemeanor, and upon conviction shall be fined a sum not to exceed fifty dollars ($50.00) or imprisoned for a period not to exceed 30 days, or both, in the discretion of the court.

Sec. 3. All lawful peace officers of the respective counties and State, including wildlife game protectors, are hereby authorized, and it shall be their duty to aid in the enforcement of this law.

Sec. 4. This act shall apply to Durham County, Orange County and a part of Richmond County only.

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of June, 1975.

H. B. 970 **CHAPTER 540**

AN ACT TO PROHIBIT HUNTING FROM ANY HIGHWAY RIGHT-OF-WAY MAINTAINED BY THE STATE AND TO PROHIBIT DEER HUNTING WITH A CENTERFIRE RIFLE IN CHATHAM COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It shall be unlawful for any person to hunt, take or kill any species of birds, animals or beasts, or attempt to hunt, take or kill any species of birds, animals or beasts by the use of firearms from the roadway or right-of-way of State-maintained public roads and highways in Chatham County.

Sec. 2. It shall be unlawful to hunt deer in Chatham County with a centerfire rifle.

Sec. 3. Any person, association of persons, or any firm or corporation violating the provisions of this section shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than twenty-five dollars ($25.00) nor more than one hundred dollars ($100.00) or imprisoned for a period not to exceed 30 days, or both, in the discretion of the court.

Sec. 4. The provisions of this section shall not be deemed exclusive and any person hunting, killing or taking deer or attempting to hunt, kill or take deer without a valid license, or out of season, or between sunset and sunrise, or in violation of a statute prohibiting the taking of doe deer, may also be punished for violation of any statute prohibiting such acts.

Sec. 5. All lawful peace officers of the county and State who are authorized to enforce hunting laws and regulations, including officers of the North Carolina Wildlife Resources Commission, are hereby authorized and it shall be their duty to aid in the enforcement of this law.

Sec. 6. This act shall apply to Chatham County only.

Sec. 7. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of June, 1975.

H. B. 1002 **CHAPTER 541**

AN ACT TO INCREASE BOILER INSPECTION FEES FOR BOILER INSPECTIONS PERFORMED BY THE NORTH CAROLINA DEPARTMENT OF LABOR.

The General Assembly of North Carolina enacts:

Section 1. All boiler inspection fees for internal and external inspections pursuant to General Statutes 95-68 are hereby revised in accordance with the following schedule:

Miniature boilers, which do not exceed 16 inches inside diameter of shell, 100 pounds per square inch maximum allowable working pressure:	
General Inspection	$ 8.00
Fire tube boilers with hand holes only:	
Internal inspection	9.00
External inspection while under pressure	7.00
Fire tube boiler with manholes:	
Internal inspection	17.00
External inspection while under pressure	7.00

Water tube boilers (coil type):	
General inspection	9.00
Water tube boilers with not more than 500 square feet of heating surface:	
Internal inspection	9.00
External inspection while under pressure	7.00
Water tube boilers with more than 500 but not more than 3,000 square feet of heating surface:	
Internal inspection	17.00
External inspection while under pressure	7.00
Water tube boilers with more than 3,000 square feet of heating surface:	
Internal inspection	27.00
External inspection while under pressure	10.00.

Sec. 2. All other boiler inspection fees pursuant to General Statutes 95-68.1 are hereby revised in accordance with the following schedule:

Low pressure steam and hot water boilers, equipped only with hand holes and washout plugs	$ 8.00
Low pressure steam and hot water boilers, equipped with manhold	17.00
Fired hot water supply boilers and fired hot water heaters equipped with a manhold	10.00
Fired hot water supply boilers and fired hot water heaters without a manhole	5.00
Each unfired pressure vessel subject to inspection equipped with a manhold	10.00
Each unfired pressure vessel subject to inspection without a manhole	5.00.

Sec. 3. This act shall become effective July 1, 1975, for all fired pressure vessels and January 1, 1976, for all unfired pressure vessels.

In the General Assembly read three times and ratified, this the 10th day of June, 1975.

H. B. 1084 CHAPTER 542

AN ACT TO PROHIBIT HUNTING WITH FIREARMS FROM THE RIGHT-OF-WAY OF HIGHWAYS IN STOKES COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It shall be unlawful to hunt, kill, take or attempt to hunt, kill, or take any animal by or with the use of firearms from any public road, highway or street in Stokes County.

Sec. 2. Any person violating the provisions of this act shall be guilty of a misdemeanor and shall be fined not in excess of fifty dollars ($50.00) or imprisoned not in excess of 30 days, or both, in the discretion of the court.

Sec. 3. This act shall be enforced by North Carolina Wildlife Protectors and all other law enforcement officers.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of June, 1975.

S. B. 297 **CHAPTER 543**

AN ACT TO INCREASE THE MAXIMUM PUNISHMENT FOR ARMED ROBBERY TO LIFE IMPRISONMENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-87, as it appears in the 1969 Replacement Volume 1B of the General Statutes of North Carolina, is amended by adding in line 9 the word "years" after the word "five" and by deleting in line 10 the words "thirty years" and inserting in lieu thereof the words "life imprisonment in the State's prison".

Sec. 2. This act shall become effective on October 1, 1975.

In the General Assembly read three times and ratified, this the 11th day of June, 1975.

S. B. 423 **CHAPTER 544**

AN ACT REPEALING CHAPTER 81 OF THE GENERAL STATUTES, WEIGHTS AND MEASURES, AND SUBSTITUTING IN LIEU THEREOF CHAPTER 81A, THE WEIGHTS AND MEASURES ACT OF 1975.

The General Assembly of North Carolina enacts:

Section 1. Chapter 81 of the General Statutes is hereby repealed and in lieu thereof there is hereby enacted Chapter 81A, which may be cited as the Weights and Measures Act of 1975, as follows:

"ARTICLE 1.

"Administration of Act.

"§ 81A-1. *Weights and measures program provided for.*—In order to protect the purchasers or sellers of any commodity, and to provide uniform standards of weight, and uniform standards of measure throughout the State, which must be in conformity with the standards of weight and the standards of measure established by Congress, the commissioner is hereby authorized to establish and maintain a weights and measures program as is hereinafter provided.

"§ 81A-2. *Administration of these Articles.*—The provisions of this act shall be administered by the commissioner or his authorized agent. For the purpose of administering and giving effect to the provisions of this act, the provisions of Handbook 44 as adopted by the National Conference on Weights and Measures, are hereby adopted except insofar as modified or rejected by the North Carolina Board of Agriculture. The North Carolina Board of Agriculture is empowered to make such further rules and regulations as may be necessary to make effective the purposes and provisions of this act. All fees or monies received by the commissioner pursuant to this act shall be placed in the Department of Agriculture fund for the purpose of enforcing this act.

"§ 81A-3. *Systems of weights and measures.*—The system of weights and measures in customary use in the United States and the metric system of weights and measures are jointly recognized, and either one or both of these systems shall be used for all commercial purposes in the State. The definitions of basic units of weight and measure, the tables of weight and measure, and weights and measures equivalents as published by the National Bureau of Standards are recognized and shall govern weighing and measuring equipment and transactions in the State.

"§ 81A-4. *Board of Agriculture authorized to establish standards of weights and measures for commodities having none.*—The Board of Agriculture is authorized, and directed and empowered to establish standards of weights and measures for any commodity if no standard has been established by Congress or by the laws of the State of North Carolina; provided, however, that when a standard is established by Congress, or by the laws of the State of North Carolina, such standard shall supersede the standard or standards established by the Board of Agriculture.

"§ 81A-5. *Employment of Director of Weights and Measures and authorized agents.*—The commissioner may employ a Director of Weights and Measures and such other employees as may be necessary in carrying out the provisions of this act and he may fix and regulate their duties. All authority vested in the commissioner by virtue of the provisions of this act may with like force and effect, be executed by such authorized agents of the commissioner as defined in this act.

"§ 81A-6. *Salaries and expenses.*—The commissioner shall request sufficient funds for the proper administration of the duties prescribed in this act.

"§ 81A-7. *Local inspection of weights and measures.*—When any city or county appoints a local inspector of weights and measures, the appointment and regulation of his work must be pursuant to the rules and regulations of the Department of Agriculture and his work shall be subject to the supervision of the commissioner or his authorized agent.

"§ 81A-8. *Standards of weights and measures.*-Weights and measures that are traceable to the U. S. Prototype Standards supplied by the United States, or approved as being satisfactory by the National Bureau of Standards, shall be the State primary standards of weights and measures, and shall be maintained in such calibration as prescribed by the National Bureau of Standards. All secondary standards may be prescribed by the commissioner and shall be verified upon their initial receipt, and as often thereafter as deemed necessary by the commissioner or his authorized agent. Complete record of the standards belonging to the State shall be maintained by the commissioner.

"§ 81A-9. *Definitions.*—The following words and phrases as used in this act, unless a different meaning is plainly required by the context, shall have the following meanings:

(1) Adjustment. 'Adjustment' is an act involving the tightening or loosening, or lengthening or shortening, or movement, of any part of a scale or weighing device, or the coordination of mechanical action of parts or electronic components with or upon each other, so as to make the scale or weighing device give correct indications of applied weight values within legal tolerance, and the correctness of indications shall be determined by test provided for under definition of the term 'service' as defined in this act.

(2) Authorized Agent. An 'authorized agent' is any employee of the North Carolina Department of Agriculture designated by the commissioner to enforce any provisions of this act and who is designated by an official identification card issued by the commissioner.

(3) Barrel. The term 'barrel' when used in connection with beer, ale, porter, and other similar fermented liquor, is a unit of 31 liquid gallons, fractional parts of a barrel shall be understood to mean like fractional parts of 31 gallons.

(4) Bulk sale. The term 'bulk sale' is the sale of commodities when the quantity is determined at the time of sale.

(5) Bushel. The term 'bushel' when used in connection with dry measure and standard containers is a unit of 2150.42 cubic inches, of which the dry quart and dry pint, respectively, are the one-thirty-second and one-sixty-fourth parts.

(6) Commissioner of Agriculture. 'Commissioner' is the Commissioner of Agriculture of the State of North Carolina.

(7) Condemned Equipment. 'Condemned equipment' is equipment that is permanently out of service.

(8) Cord. 'Cord' when used in connection with purchases of wood is a quantity of wood consisting of any number of sticks, bolts or pieces laid parallel and together so as to form a rick or stack occupying a space four feet wide, four feet high and eight feet long, or such other dimensions that will, when multiplied together equal 128 cubic feet by volume, construed as being seventy percent (70%) solid and thirty percent (30%) air space or 90 solid cubic feet.

(9) Correct. 'Correct' is conformance to all applicable requirements of this act.

(10) Flour. 'Flour' is any finely ground product of wheat, or other grain, corn, peas, beans, seed or other substance, with or without added ingredients, intended for use as food for man.

(11) Gallon. 'Gallon' when used in connection with liquid measure is a unit of 231 cubic inches of which the liquid quart, liquid pint, and gill are respectively, the quarter, the one-eighth and the one-thirty-second parts.

(12) Installation. 'Installation' is an act involving the erection, or building, or assembling of parts, or the placing or setting up of a scale or weighing device so as to give correct indications of applied weight values within legal tolerance when used for the purpose intended, and the correctness of indications shall be determined by test provided for under definition of the term 'service' as defined in this act.

(13) Maintenance. 'Maintenance' is an act pursuant to the retention of a scale or weighing device in such working condition as to give correct applied weight value indications within legal tolerance when used as intended, which may involve either or both adjustment or repair before or after inaccuracy develops in fact, and the correctness of indications shall be determined by test provided for under the term 'service' as defined in this act.

(14) Meal. 'Meal' is any product of grain, corn, peas, beans, seed or other substance coarsely ground, with or without added ingredients, either bolted, or unbolted, including grits and hominy, intended for use as food for man.

(15) Package. 'Package' is any commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale.

(16) Person. 'Person' is both plural and singular, as the case demands, and includes individuals, partnerships, corporations, companies, firms, societies, and associations.

(17) Pound. 'Pound' used in connection with weight, is the avoirdupois pound as declared by act of the United States Congress, except in those cases where it is common practice to use the 'troy' pound or 'apothecaries' pound, and the 'ounce' is one-sixteenth part of an avoirdupois pound.

(18) Primary Standards. 'Primary standards' are the physical standards of the State which serve as the legal reference from which all other standards, weights and measures are derived.

(19) Rejected Equipment. 'Rejected equipment' is equipment that is incorrect, which is considered susceptible of proper repair.

(20) Repair. 'Repair' is an act involving the replacement or mending of a broken or nonadjustable part or parts and the restoration of a scale or weighing device to such working condition as to give correct indications of applied weight values within legal tolerance when used for the purpose intended, and the correctness of indications shall be determined by test provided for under the term 'service' as defined in this act.

(21) Sale or Sell. 'Sale or sell' is the ordinary meaning of said words and includes barter and exchange.

(22) Scale Technician. A 'scale technician' is any person who, for hire or award, renders service involving adjustment, installation, repair, or maintenance of a scale or weighing device, either used or intended to be used in determining weight value, or values, by either physical act, instruction, or supervision.

(23) Secondary Standards. 'Secondary standards' are the physical standards which are traceable to the primary standards through comparisons, using acceptable laboratory procedures, and used in the enforcement of weights and measures laws and regulations.

(24) Service. 'Service' is activity involving adjustment, installation, repair, or maintenance or a combination of two or more of these activities with respect to a scale or weighing device, and, in addition thereto, a test for determination of the accuracy of weight value indication in the following manner: applying a series of loads of standard weight on a platter or platform up to capacity on a scale of 30 pounds capacity, and on all other scales except vehicle scales, standard weight loads equal to the first dial and/or unit weight on dial scales, and on beam scales and digital instruments a standard weight load equal to three-fourths scale capacity shall be applied. On vehicle scales up to and including 10 tons a minimum of 5,000 pounds of standard weight load and 5,000 pounds of build up load equally distributed. On vehicle scales with a rated capacity in excess of 10 tons a standard weight load (build up load if standard weights are not available) of not less than 20,000 pounds. If scale is so equipped all tare mechanisms shall be included in test.

(25) Ton. 'Ton' is a unit of 2,000 pounds, avoirdupois weight.

(26) Weight. 'Weight' when used in connection with any commodity is net weight; provided, however, where the label declares that the product is sold by drained weight, weight means net drained weight.

(27) Weight(s) and (or) Measure(s). 'Weight(s) and (or) measure(s)' are all weights and measures of every kind, instruments, and devices for weighing and measuring, and any appliance and accessories associated with any or all such instruments and devices.

"ARTICLE 2.

"Responsibilities.

"§ 81A-10. *The commissioner shall*:—(a) Have and keep general supervision of commercial weighing and measuring devices offered for sale, sold or used in the State.

(2) Upon written request from any person or educational institution in the State test or cause to be tested, or calibrate weights, measures and weighing and measuring devices used as standards in the State.

(3) Enforce all the provisions of this act.

(4) Conduct investigations to insure compliance with this act.

(5) Inspect and test weights and measures kept, offered, or exposed for sale.

(6) Inspect and test to ascertain if they are correct, weights and measures commercially used (a) in determining the weight, measure, or count of commodities or things sold, or offered or exposed for sale, on the basis of weight, measure or count or (b) in computing the basic charge or payment for services rendered on the basis of weight, measure or count.

(7) Approve for use, and may mark, such weights and measures and weighing and measuring devices as he finds to be correct, and shall reject and mark as rejected such weights and measures as he finds incorrect. Weights and measures and weighing and measuring devices that have been rejected may be seized if not corrected within 10 days, or if used or disposed of in a manner not specifically authorized. Weights and measures found to be incorrect that are not capable of being made correct shall be condemned and may be seized by the commissioner without any court order or other legal process.

(8) Weight, measure, or inspect packaged commodities kept, offered, or exposed for sale, sold or in the process of delivery, to determine whether they contain the amounts represented and whether they are kept, offered, or exposed for sale in accordance with this Act or regulations promulgated pursuant thereto. In carrying out the provisions of this section, recognized sampling procedures, such as are designated in National Bureau of Standards Handbook 67, 'Checking Prepackaged Commodities' shall be used.

(9) Allow reasonable variations from the stated quantity of contents, which shall include those caused by loss or gain of moisture during the course of good distribution practice or by unavoidable deviations in good manufacturing practice only after the commodity has entered intrastate commerce.

(10) Delegate to authorized agents any of these responsibilities for the proper administration of this act.

"§ 81A-11. *Police powers.*—When necessary for the enforcement of this act or regulations promulgated pursuant thereto the commissioner or his authorized agent is: (1) Authorized to enter any commercial premises during normal business hours, except that in the event such premises are not open to the public, he shall first present his credentials and obtain consent before making entry thereto, unless a search warrant has previously been obtained.

(2) Empowered to issue stop-use, hold, and removal orders with respect to any weights and measures commercially used, and stop-sale, hold, and removal orders with respect to any packaged commodities or bulk commodities kept, offered, or exposed for sale.

(3) Empowered to seize, for use as evidence, without warrant or other legal writ, any incorrect or unapproved weight, measure, package, or commodity found to be used, retained, offered, or exposed for sale or sold in violation of the provisions of this act or regulations promulgated pursuant thereto.

(4) Empowered to stop any commercial vehicle wherever found in the State and, after presentment of his credentials, inspect the contents, require that the person in charge of that vehicle produce any documents in his possession concerning the contents, and require him to proceed with the vehicle to some specified place for inspection.

(5) Authorized to arrest, without warrant, any violator of this act. Such authorized agent shall proceed forthwith with such person before a magistrate or other person authorized to issue arrest warrants.

"ARTICLE 3.

"Violations.

"§ 81A-12. *Misrepresentation of quantity.*—No person shall sell, offer or expose for sale less than the quantity he represents. No buyer shall take more than the quantity he represents when he furnishes the weight or measure by means of which the quantity of any commodity, thing or service is determined.

"§ 81A-13. *Misrepresentation of pricing.*—No person shall misrepresent the price of any commodity or service sold, offered, exposed, or advertised for sale by weight, measure, or count, nor represent the price in any manner calculated or tending to mislead or in any way deceive a person.

"§ 81A-14. *Commodities to be sold by weight, measure or numerical count.*—It shall be unlawful to sell, except for immediate consumption by the purchaser, on the premises of the seller, liquid commodities in any other manner than by weight or liquid measure, or commodities not liquid in any other manner than by measure of time, by length, by volume, by weight or by numerical count. When a commodity is sold by numerical count in excess of one unit, the units which constitute said numerical count shall be uniform in size and/or weight, and be so exposed as to be readily observed by the purchaser.

"§ 81A-15. *Unlawful for package to mislead purchaser.*—It shall be unlawful to keep for the purpose of sale, offer or expose for sale, or sell, any commodity in package form when said package is so made, or formed, or filled, or wrapped, or exposed, or marked, or labeled as to mislead or deceive the purchaser as to the quantity of its contents.

"§ 81A-16. *Sale from bulk.*—Whenever the quantity is determined by the seller, bulk sales in excess of twenty dollars ($20.00) and all bulk deliveries of heating fuel shall be accompanied by a delivery ticket containing the following information:

(1) The name and address of the vendor and purchaser,

(2) The date delivered,

(3) The quantity delivered and the quantity upon which the price is based, if this differs from the delivered quantity,

(4) The identity of the most descriptive terms commercially practicable, including any quality representation made in connection with the sale, and

(5) The count of individually wrapped packages, if more than one.

"§ 81A-17. *Information required on packages.*—Except as otherwise provided in this act or by regulations promulgated pursuant thereto, any package kept for the purpose of sale or offered or exposed for sale shall bear on the outside of the package a definite, plain, and conspicuous declaration of:

(1) The identity of the commodity in the package, unless the same can easily be identified through the wrapper or container,

(2) The quantity of contents in terms of weight, measure, or count, and

(3) The name and place of business of the manufacturer, packer, or distributor, in the case of any package kept, offered, or exposed for sale, or sold in any place other than on the premises where packed.

"§ 81A-18. *Declarations of unit price on random packages.*—In addition to the declarations required by G.S. 81A-17, any package being one of a lot containing random weights of the same commodity and bearing the total selling price of the package shall bear on the outside of the package a plain and conspicuous declaration of the price per single unit of weight at the time it is offered for retail sale.

"§ 81A-19. *Offenses and penalties.*—Any person who violates any provision of this section or any provision of this act or regulations promulgated pursuant thereto, for which a specific penalty has not been prescribed, shall be guilty of a misdemeanor, and upon a first conviction thereof shall be punished by a fine of not less than fifty dollars ($50.00) or more than five hundred dollars ($500.00), or by imprisonment for not more than three months, or both. Upon a subsequent conviction thereof, said person shall be punished by a fine of not less than one hundred dollars ($100.00) or more than one thousand dollars ($1,000) or by imprisonment for up to one year, or both. No person shall:

(1) Use or have in possession for use in commerce any incorrect weight or measure.

(2) Remove any tag, seal, or mark from any weight or measure without specific written authorization from the commissioner or his authorized agent.

(3) Hinder or obstruct any weights and measures official in the performance of his duties.

(4) Impersonate in any way any employee of the North Carolina Department of Agriculture designated by the commissioner to enforce any part of this act.

(5) Use in retail trade, except in the preparation of packages put up in advance of sale, a weighing or measuring device which is not so positioned so that its indications may be accurately read and the weighing or measuring operation observed from some position which may be reasonably assumed by a customer.

"§ 81A-20. *Injunction.*—The commissioner or his authorized agent is authorized to apply to any court of competent jurisdiction for a temporary restraining order or a preliminary or permanent injunction restraining any person from violating any provision of this act.

"§ 81A-21. *Presumptive evidence.*—Whenever there shall exist a weight or measure or weighing or measuring device in or about any place in which or from which buying or selling is commonly carried on, there shall be a rebuttable presumption that such weight or measure or weighing or measuring device is regularly used for the business purposes of that place.

"ARTICLE 4.

"Uniform Weights and Measures.

"§ 81A-22. *Standard weight packages of flour, meal, grits and hominy.*—All flour and meal packed for sale, offered or exposed for sale, or sold in this State shall be one of the following standard weight packages and no other, namely; five pounds, ten pounds, twenty-five pounds, fifty pounds, one hundred pounds, and multiples of one hundred pounds; provided, however, nonstandard weight packages may be packed for sale, offered or exposed for sale, or sold in this State, weighing three pounds or less, if said nonstandard weight packages shall be plainly and conspicuously marked showing net contents in avoirdupois weight; provided further that nothing in this section shall be construed to prevent the retail sale of any amount of flour or meal direct to the consumer from bulk, upon order and weight at time of delivery to the consumer.

"§ 81A-23. *Sale of cement blocks, cinder blocks and other concrete masonry units.*—In order to protect the purchasers of concrete block, cinder block, and other concrete masonry units and to provide for a minimum load bearing strength, all concrete block, cinder block, and other concrete masonry units offered for sale or sold in this State shall have a load bearing strength of not less than 700 pounds per square inch of gross bearing area, or the minimum load bearing strength approved by the National Underwriters Laboratory or by the

American Society of Testing Materials, whichever is less. The manufacturer shall furnish proof, acceptable to the Board of Agriculture, that the concrete block, cinder block, or other concrete masonry units being offered for sale or sold complies with the minimum load bearing strength required by this section. Each sale shall be accompanied with a bill of sale or invoice on which shall be printed or stamped in ink or other indelible substance a statement guaranteeing that the products covered by said bill of sale or invoice meet the minimum load bearing strength as required by this section signed by a duly authorized official or agent of the manufacturer; provided, however, that the provisions of this section shall not prohibit the sale or offer for sale of cement block, cinder block, or other concrete masonry units, known as 'seconds' or 'rejects', due to size, shape or less than minimum load bearing requirement, if and when said sale is accompanied with a bill of sale or invoice on which is printed or stamped in ink or other indelible substance in bold letters a statement that the cement block, cinder block, or other concrete masonry units so billed or invoiced are inferior in quality and do not comply with minimum load bearing requirement signed by a duly authorized official or agent of the manufacturer.

"§ 81A-24. *Approval of heating units, etc., for curing tobacco.*—All heating units and/or curing assemblies offered for sale or sold in this State, intended for use in curing the so-called flue cured tobacco, shall bear a label or seal of approval, authorized by the Board of Agriculture, and be accompanied with a statement, including drawings and instructions, signed by the manufacturer thereof, specifying how said heating unit shall be installed, operated, and/or used, so as to reduce to a minimum the fire hazard involved.

In order to obtain from the Board of Agriculture a label or seal of approval herein referred to, the manufacturer of the heating unit and/or curing assembly hereinafter referred to as a 'curer', shall first, and at his own expense, submit, set up and demonstrate a representative curer, so as to prove to the commissioner or his authorized agent that said curer will, when installed and operated in accordance with drawings and instructions furnished by said manufacturer, in accordance with the rules and regulations adopted by the Board of Agriculture, reduce to a minimum the fire hazard involved; and second, shall obtain from the Department of Agriculture the label or seal of approval to be known as the 'approval tag' and attach same to each curer which he (the manufacturer) offers for sale, sells, or installs either by himself or through his agent.

The Board of Agriculture is hereby authorized and empowered to make such rules and regulations as may be necessary to make effective the provisions of this section, and to make a charge for the approval tag not in excess of fifty cents (50¢) per curer. The said charge shall include the cost of issuing the tag of approval, and the cost of ascertaining by on-the-farm inspection whether or not the curers are being installed in accordance with the manufacturer's drawings and instructions, and/or the rules and regulations as adopted by the Board of Agriculture. In making and formulating its rules and regulations, the Board of Agriculture will observe certain standards, such as the nature, type and technical construction of a tobacco curer referred to in this section, the type of fuel to be used, distance of flame from combustible materials, safety cut-off valves, method of installation, thermal or heating problems, inspection of curers, both before and after use, and any and all changes and standards that should be promulgated and made to reduce fire hazards and lower insurance costs and to protect the tobacco crops of farmers. The enumeration of certain standards as

herein given shall not limit the authority of the Board of Agriculture to make rules and regulations involving other standards suggested by scientific information as the same relates to curers and related problems.

"§ 81A-25. *Sale of coal, coke and charcoal by weight.*—(a) All coal, coke, or charcoal sold in this State shall be sold by weight only. The standard unit of weight shall be the avoirdupois pound, and a ton shall be 2,000 pounds.

(b) All coal, coke, or charcoal sold or offered for sale in this State, or which is being transported on any public street or highway in North Carolina, shall be weighed on scales suitable for such weighing, which have been tested and sealed by the commissioner or his authorized agent. It shall not be unlawful to transport such coal, coke, or charcoal to the nearest such scale for the purpose of having same weighed, but no sale or delivery of same shall take place until the load shall have been weighed.

(c) Each sale or delivery of coal, coke, or charcoal to the consumer shall be accompanied by a weight certificate on which shall be expressed in ink or other indelible substance the name and address of the seller or dealer, name and address of the purchaser or receiver, the kind and size of coal being delivered and the gross tare and net weights, the date of weighing, the signature of the weighmaster, a place for signature of receiver, the name of deliveryman, and the license number of delivery vehicle. The weight certificate shall be made with an original and two carbon copies, with one copy going to the purchaser or receiver, one copy to be held by the deliveryman, and the third copy to be held by the weighmaster; provided, however, that when coal, coke or charcoal is delivered in this State in railway carload lots, the railway bill of lading may be used in lieu of the weight certificate required by this section.

"§ 81A-26. *Establishment of standard loaves of bread; 'loaf' defined.*—When loaves of bread are offered for sale or sold in this State, each loaf shall be one of the following weights and lengths and no other, to wit: one pound, 11-1/2 inches maximum length, five inches maximum width at bottom; one and one-half pounds, 13-1/2 inches maximum length, five inches maximum width at bottom; two pounds, 15 inches maximum length, five inches maximum width at bottom; two and one-half pounds, 16-1/2 inches maximum length, five inches maximum width at bottom. The term 'loaf' as used in this section shall be construed to mean a loaf which is baked in a pan of rectangular shape, either with straight up or flared side, either with or without cover, and shall be known hereafter as the standard loaf.

"§ 81A-27. *Standard weights and measures.*—Whenever any commodity named in this section shall be quoted or sold by the bushel, the bushel shall be the number of pounds stated in this section and whenever quoted or sold in subdivisions of the bushel, the number of pounds shall be the fractional part of the number of pounds as set forth herein for the bushel, and when sold by the barrel shall consist of the number of pounds constituting 3.281 bushels.

Commodity	Lbs. per bu.	Commodity	Lbs. per bu
Alfalfa	60	Grass seed, tall meadow & Fescue	24
Apples, dried	24	Grass seed, all meadow & Fescue except tall	14
Apple seed	40	Grass seed, perennial rye	14

Barley	48
Beans, Castor	46
Beans, dry lima	60
Beans, green in pod Lima	30
Beans, soy	60
Beef, net (per bbl)	200
Beets	50
Blackberries	48
Blackberries, dried	28
Bran	20
Broom-corn	44
Buckwheat	50
Cabbage	50
Canary seed	60
Carrots	50
Cherries, with stems	56
Cherries, without stems	64
Clover seed, red & white	60
Clover, Burr	8
Clover, German	60
Clover, Japan, Lespedeza	25
Corn, shelled	56
Corn, Kaffir	50
Corn, pop	70
Cotton seed	30
Cotton seed, Sea Island	44
Cucumbers	48
Fish	100
Flax seed	56
Grapes, with stems	48
Grapes, without stems	60
Gooseberries	48
Grass seed, Bermuda	14
Grass seed, Blue	14
Grass seed, Hungarian	48
Grass seed, Johnson	25
Grass seed, Italian Rye	20
Grass seed, Timothy	45
Grass, redtop	14
Grass seed, Velvet	7
Hemp seed	44
Hominy	62
Horseradish	50
Parsnips	50
Meal, corn, whether bolted or unbolted	48
Melon, cantaloupe	50
Millet	50
Mustard	58
Nuts, chestnuts	5
Nuts, hickory, without hulls	50
Nuts, walnut, without hulls	50
Oats, seed	32
Onions, button sets	32
Onions, top buttons	28
Onions, matured	57
Osage orange seed	33
Peaches, matured	50
Peaches, dried	25
Peach seed	50
Peanuts, Spanish	30
Peanuts	22
Pears, matured	56
Pears, dried	26
Peas, dry field	60
Peas, green in hull field	30
Pieplant	50
Plums	64
Pork net (per bbl)	200
Potatoes, Irish	56
Potatoes, sweet green	56
Potatoes, sweet, dry weight	47
Quinces, matured	48
Tomatoes	56
Turnips	50

Grass seed, orchard	14	Wheat	60
Raspberries	48	Cement	80
Rice, rough	44	Charcoal	22
Rye seed	56	Coke	40
Sage	4	Coal, stone	80
Salads, mustard, spinach, turnips, & kale	10	Hair, plaster	8
Salt	50	Land plaster	100
Sorghum Molasses (per gal)	12	Lime, unslaked	80
Sorghum seed	50	Lime, slaked	40
Strawberries	48		
Sunflower seed	24		
Teosinte	59		

It shall be unlawful to purchase or sell, or barter or exchange, any article named in this section on any other basis than as stated herein; provided, however, that any such articles may be sold by weight.

"§ 81A-28. *Standard rule for measurement of logs.*—The standard rule for determining the number of board feet in a tree or log shall be the so-called 'International 1/4 inch Log Rule'. None of the provisions of this section shall apply to contracts entered into prior to the ratification of this act, nor to the measure of damages in any action in tort. This section shall not prevent the buyer and the seller from agreeing that some other log rule shall be used to determine the number of board feet in trees or logs covered by the contract between them.

"§ 81A-29. *Authority to prescribe standards of weight or measurement for sale of milk or milk products.*—The Board of Agriculture is hereby authorized and empowered to adopt and promulgate, after notice and hearing, rules and regulations prescribing standards or units of weight or measure by which milk, cream or other fluids containing milk or milk products may be sold at retail in bottles or other capped or sealed containers, and the sale thereof by any other standards or units of weight or measure shall be unlawful.

"ARTICLE 5.

"Public Weighmasters.

"§ 81A-30. *Weighing livestock sold at public livestock market; weight certificates.*-Whenever livestock is offered or exposed for sale, or sold by weight at a public livestock market, the livestock shall be weighed by a public weighmaster and each individual sale shall be accompanied with a weight certificate in duplicate on which shall be expressed in ink or other indelible substance, the name and address of seller, the kind, number and weight of livestock being offered for sale, or sold, the time of day and date of weighing and the name of the weighmaster. The information expressed on said certificate shall be announced or otherwise made known immediately preceding the sale, if said sale be by auction.

"§ 81A-31. *Public weighmaster defined: to be licensed.*—Any person, either for himself or as a servant or agent of any other person, firm, or corporation, or who is elected by popular vote, who shall weigh, or measure, or count, or who

shall ascertain from, or record, the indications or readings of, a weighing, or measuring, or recording, device or apparatus for any other person, firm, or corporation, and declare the weight, or measure or count, or reading, or recording to be the true weight, or measure, or count, or reading, or recording of any commodity, thing, article, or product upon which the purchase, or sale, or exchange, is based, and make a charge for, or collect pay, a fee, or any other compensation for such act, shall issue a certificate of weight, or measure, or count, in accordance with the provisions of this act, shall be licensed and shall be known as a public weighmaster in the State of North Carolina.

"§ 81A-32. *Application for license permit.*—Any person not less than 18 years of age desiring to be a public weighmaster in this State shall apply for and obtain a license from the North Carolina Department of Agriculture by filing formal application under oath as follows: 'I, _____, a citizen of the United States, residing at_____, county of _____ have familiarized myself with the law and with full knowledge of the provisions contained therein relative to licensing of public weighmaster, do hereby file application for license to be issued accordingly. I certify that I am of sound mind and am physically fit to perform the duties imposed upon a public weighmaster and that I will, if licensed, abide by and enforce all laws, rules and regulations relating to a public weighmaster to the best of my knowledge and ability.'

"§ 81A-33. *Forms of certificates of weight, etc., to be approved by commissioner or authorized agent.*—It shall be the duty of every public weighmaster licensed under this act to issue a certificate of weight, measure, count, reading, or recording on forms approved by the commissioner or his authorized agent, and to enforce the provisions of this act, together with rules and regulations relating thereto. Said public weighmasters shall not receive compensation from the State for the duties performed.

"§ 81A-34. *Official seal of public weighmaster.*—It shall be the duty of every public weighmaster so licensed under this Article to obtain from the North Carolina Department of Agriculture an official seal for the sum of five dollars ($5.00), which seal shall have inscribed thereon the following words: 'North Carolina Public Weighmaster' and such other design and/or legend as the commissioner or his authorized agent may deem appropriate. The seal shall be stamped or impressed upon each and every weight, measure, count, reading or recording certificate issued by such public weighmaster, and when so applied the certificate shall be recognized and accepted as a declaration of the official, true, and accurate and undisputed weight, measure, count, reading or recording of the commodity, product, or article weighed, or measured, or counted within the tolerance allowed by this act; provided, however, that the weighers of tobacco in leaf tobacco warehouses may use, in lieu of said seal, a signature, which signature shall also appear, in ink or other indelible substance on the weighmaster's formal application, and again, posted in a conspicuous and accessible place in the tobacco warehouse where he is acting as a weighmaster. All public weighmasters' seals shall remain the property of the State of North Carolina.

"§ 81A-35. *Violations of provisions by weighmasters made misdemeanor.*—Any public weighmaster who shall refuse to issue a certificate as prescribed by this Article, or who shall issue a certificate giving a false weight, or measure, or count, or reading, or recording, or who shall misrepresent the weight, or

measure, or count, or reading, or recording of the quantity of any commodity, product or article to any person, firm or corporation, or who shall otherwise violate any of the provisions of this Article shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than ten dollars ($10.00) nor more than five hundred dollars ($500.00), or by imprisonment for not more than three months, or by both such fine and imprisonment in the discretion of the court, and, in addition thereto, his license shall be revoked and he shall forfeit his seal which, when so forfeited, shall be turned over to the commissioner or his authorized agent.

"§ 81A-36. *Requesting weighmaster to falsify weights; impersonation of weighmaster; alteration of certificate, etc.*—Any person, firm, or corporation who shall request a public weighmaster to weigh, measure, count, read, or record any commodity, product or article falsely or incorrectly, or who shall request a false or inaccurate certificate of weight, measure, count, reading, or recording, or any person issuing a certificate of weight, or measure, or count, or reading, or recording within the meaning of this Article, who is not a public weighmaster as provided for by this Article, or who shall act as, or for, or in any way impersonate, a public weighmaster, or who shall erase, change, or alter any certificate issued by a public weighmaster, or who shall make incorrect the certificate by increasing or decreasing the weight or measure or count of the commodity, product or article certified to for the purpose of deception, or who shall violate any provision of this Article for which a special penalty has not been provided, shall be guilty of misdemeanor and upon conviction thereof shall be punished by a fine of not less than fifty dollars ($50.00) nor more than five hundred dollars ($500.00), or by imprisonment for not more than three months, or by both such fine and imprisonment in the discretion of the court.

"§ 81A-37. *Certificate of weighmasters presumed accurate and correct.*—When a public weighmaster certificate is used in the sale, or purchase, or barter, or exchange of any commodity, product, or article, the certified weight, or measure, or count or reading or recording shall be deemed to be the true, accurate and undisputed weight, or measure or count, or reading or recording at time said commodity, product, or article is put into the natural channels of trade, which is, at the time of sale or purchase or barter or exchange; provided, however, that reasonable variations, or tolerances shall be permitted as established by rules and regulations as provided for by this act.

"§ 81A-38. *Duty of custodian of product during time intervening between weighing and issuance of certificate.*—If any commodity, product or article is to be offered for sale, or sold and is weighed or measured or counted by any public weighmaster and a certificate issued prior to sale, or acceptance of such commodity, product or article by the purchaser, his agent, or consignee, or if any commodity, product or article is offered for sale, sold, and/or delivered pending the weighing or measuring or counting of such commodity, product, or article by a public weighmaster and the issuance of a certificate, the person, firm, or corporation in whose custody said commodity, product or article is, shall keep, protect and prevent any increase or decrease in weight, measure or count, in the interim so that the declaration of weight, or measure, or count shall be true in accordance with Section 81A-37. The term 'interim' as used in this section shall be construed to mean the time intervening between the weighing and issuance of certificate and the sale or purchase and the time intervening between the sale or purchase and the presentation of such commodity, product, or article to the

public weighmaster for weighing or measuring or counting, and the issuance of certificate. Any loss sustained in the weight or measure or count of any commodity, product, or article while in custody shall be borne by the person, firm or corporation in whose custody said commodity, product, or article is.

"§ 81A-39. *Weighing tobacco in sales warehouses.*—All leaf tobacco offered for sale in a leaf tobacco warehouse in this State shall be weighed by a public weighmaster, shall be accompanied by a public weighmaster certificate, and shall be and remain in custody of the warehouse operator from and after the time it is weighed by the public weighmaster until it is sold or the bid is rejected by the owner thereof.

"§ 81A-40. *Complaints to weighmaster or Commissioner of Agriculture.*—When doubt or difference arises as to the correctness of the weight, or measure, or count, or reading, or recording of any amount or part of any commodity, product, or article for which a certificate of weight, measure, count, reading or recording, has been issued by a public weighmaster, the owner, agent or consignee shall make complaint before moving said commodity, product, or article from city, town or community where weight certificate was issued, to the public weighmaster issuing said certificate or to the commissioner or his authorized agent setting forth the cause or causes for such doubt and/or difference, and have said amount, or part of the amount, or any commodity, product, or article reweighed, or remeasured, or recounted by the weighmaster issuing the certificate or by an authorized agent of the commissioner; provided, the commodity, product or article is kept and protected as is required during the interim period provided for in Section 81A-38. If, on reweighing, remeasuring, or recounting, a difference in original weight, or measure or count, is sustained the difference thus sustained shall be that, and that only, which is in excess of tolerance allowed by this act, and any desired adjustment as a result of such difference shall be made accordingly, and the cost of reweighing or remeasuring or recounting shall be borne by the public weighmaster responsible for the issuance of such faulty certificate; otherwise, the cost shall be borne by the complainant.

"§ 81A-41. *Approval of devices used.*—It shall be unlawful for any public weighmaster to use any weights or measures, or weighing or measuring or reading or recording device, which has not been tested and approved by the commissioner or his authorized agent in accordance with the provisions of this act and the rules and regulations governing same.

"§ 81A-42. *Annual license for public weighmaster.*—Public weighmasters shall be licensed for a period of one year beginning on the first day of July and ending on the thirtieth day of June, next, and a fee of ten dollars ($10.00) shall be paid for each person so licensed to the Department of Agriculture at time of filing application, as set forth in Section 81A-32.

"§ 81A-43. *Seal declared property of State.*—The seal herein provided for shall be the property of the State of North Carolina and shall be forfeited and returned to the commissioner or his authorized agent upon termination of the performance of duties herein described as being the duties of a public weighmaster. Failure or refusal of a person licensed as a public weighmaster under this Article to return, turn over, or surrender the official seal furnished by the Department of Agriculture upon expiration of term of license or for malfeasance in office, shall be a misdemeanor and any person convicted thereof shall forfeit the amount paid for use of such seal and shall be punished by a fine

of not less than ten dollars ($10.00) nor more than two hundred dollars ($200.00), or by imprisonment for not more than three months, or both such fine and imprisonment, in the discretion of the court.

"§ 81A-44. *Cotton weighing.*—If any weigher or purchaser of cotton shall make any deduction from the weight of any bag, bale, or package of lint cotton, for or on account of the draft, turn, or break of the scales, steelyards, or other implement used in weighing the same, or for any other cause except as herein allowed, the person so offending shall be guilty of a misdemeanor, and fined not more than three hundred dollars ($300.00) or imprisoned, in the discretion of the court; provided, however, that deductions may be made by the weigher for water, dirt, or other foreign substances on such bag, bale, or package of cotton, or for other just cause, but if such deductions are made, the nature of such deductions shall be indicated upon the principal weight ticket which shall also show the gross weight of the cotton, the amount deducted as tare, and the net weight of said cotton.

"ARTICLE 6.

"Scale Technician.

"§ 81A-45. *Purpose of Article.*—The purpose of this Article shall be to protect the owners and users of scales and weighing devices in their needs for scale repair and service, to provide for scale technician registration, and to provide for financial underwriting of services rendered.

"§ 81A-46. *Prerequisites for scale technician.*—It shall be unlawful for any scale technician to render service as a scale technician until after he or she has complied with the following requirements:

(1) Obtained from the Department of Agriculture a copy of this Article, a copy of regulations pertinent to said Article, and an application form for registration.

(2) Obtained bond in the sum of one thousand dollars ($1,000) issued by a surety company licensed to do business in North Carolina.

(3) Filed bond with the clerk of superior court of the county in which such applicant resides, unless he or she be a resident of some other state, in which event such bond shall be filed with the Clerk of Superior Court in Wake County, North Carolina.

(4) Obtained a receipt in duplicate for such bond and filed the receipt with the clerk of superior court and mailed or delivered one copy of such receipt together with the application form for registration, completely filled out, to the Department of Agriculture, Raleigh, North Carolina.

(5) Obtained a registration card or certificate from the commissioner or his authorized agent and a model form of service certificate.

The provisions of this Article shall not apply to a full-time employee who renders service only on a scale or weighing device, or on scales or weighing devices, owned solely by his or her employer unless additional pay or compensation is received for such service.

"§ 81A-47. *Registration; certificate of registration; annual renewal.*—The commissioner or his authorized agent shall register any person who has complied with the requirements of this Article by making a record of receipt of application and of bond, and the issuing of a certificate or card of registration to applicant, whereupon the applicant becomes a registered scale technician and shall be known thereafter as such. Such registration shall be in effect from date

of registration until July 1st next and shall be renewed on the 1st day of July of each year thereafter.

"§ 81A-48. *Service certificate.*—Whenever any service is rendered on any scale or weighing device used or intended to be used in this State by a scale technician, a certificate shall be issued by such scale technician who rendered said service, which shall be known as a 'service certificate'. The size and form of said service certificate shall be determined by the commissioner or his authorized agent. Inclusive of other pertinent information or statements, the said certificate shall bear a statement expressed in ink or other indelible substance naming the kind of service rendered, whether adjustment, installation, repair, or maintenance, and stating that a service test as defined under the term 'service' has been made, and that the service rendered is guaranteed to be as represented. The service certificate shall be made out in triplicate, with original going to the owner of such scale or weighing device or his agent, and a duplicate shall be sent to the commissioner or his authorized agent if service is upon a scale or weighing device which has been rejected or condemned by an authorized agent, and the triplicate copy shall be retained by the scale technician issuing such certificate.

"§ 81A-49. *Bond.*—The bond required by this Article shall underwrite the guarantee of a refund or compensation, covering any claim by owner of scale or weighing device for damage or injury, which claim is sustained by the court, resulting in misrepresentation of service rendered, or failure to comply with all the provisions of this Article, by the scale technician, regardless of his or her intent; provided, however, that the aggregate liability of the surety to all claimants sustained by the court shall in no event exceed the amount of said bond.

"§ 81A-50. *Scale removal.*—When a scale or weighing device is removed from the premises where located by a scale technician, the scale technician or his servant or agent shall issue a receipt for said scale or weighing device, on which shall be written in ink or other indelible substance the name and address of the owner, the name and address of receiving agent, date of receipt, anticipated date of return, name or make of scale, and such other information pertinent to its identification. The form of receipt shall be approved by the commissioner or his authorized agent.

"§ 81A-51. *Control of condemned or rejected scale.*—It shall be unlawful for any owner of a scale or weighing device which has been condemned or rejected by the commissioner or his authorized agent to either use or dispose of same in any manner other than at the direction of the commissioner or his authorized agent; provided, however, said rejected scale or weighing device may be removed from the premises temporarily for repairs or service only.

"§ 81A-52. *Secondhand scale.*—It shall be unlawful for any person to sell, or offer for sale, or put into use, a secondhand or rebuilt or reconditioned scale or weighing device unless said scale shall have been tested and approved by the commissioner or his authorized agent, or shall be accompanied by a service certificate as provided for in this Article. Said service certificate shall be retained by the purchaser or user of said scale until an inspector of weights and measures has tested and approved such secondhand scale. The said certificate shall serve as proof of the accuracy of scale at the time scale was purchased or put into service. A secondhand or rebuilt or reconditioned scale or weighing device as referred to in this section shall be considered as being a scale or

weighing device in the channels of trade which does not belong to the previous user.

"§ 81A-53. *Scale location.*—It shall be unlawful for any scale or weighing device to be installed, set up, put into service, or used on a foundation or support that aids in giving false indication of weight values applied to platter, platform, or other load receiving element.

"§ 81A-54. *Exemption.*—The provisions of this Article shall not prohibit the user of a scale or weighing device from employing some person other than a scale technician to render service as defined by this Article upon his or her scale or weighing device, nor apply to the person so employed, who does not solicit such employment, provided that said user shall not be relieved of his or her responsibility or liability concerning the accuracy of the scale or weighing device after service has been rendered.

"§ 81A-55. *Penalty.*—Any person who violates any of the provisions of this Article, or who for hire or award renders service as a scale technician on a scale or weighing device without registering as a scale technician or who shall fail to issue a service certificate or who shall issue a service certificate bearing false statements regarding service rendered, shall be guilty of a misdemeanor, and upon conviction, shall be fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500.00) or imprisoned for not more than three months, or both fined and imprisoned. Upon conviction of violating this Article, a scale technician, shall forfeit any charges or remuneration for service rendered, if service be involved. The scale technician and his bonding company shall, at the discretion of the court, reimburse or compensate the owner of the scale or weighing device in question for such damage, or injury, sustained. Upon a subsequent conviction of violation of this Article, the court in its discretion, may deny a scale technician the privilege to act as or in the capacity of a scale technician for a specified length of time. His registration card or certificate may be seized by the court and turned over to the commissioner or his authorized agent with instruction concerning reinstatement or renewal.

"ARTICLE 7.

"General Provisions.

"§ 81A-56. *Regulations to be unaffected by repeal of prior enabling statute.*—The adoption of this Chapter or any of its provisions shall not affect any regulations promulgated pursuant to the authority of any earlier enabling statute unless inconsistent with this act or modified or revoked.

"§ 81A-57. *Severability provision.*—If any provision of this Chapter is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the Chapter and the applicability thereof to other persons and circumstances shall not be affected thereby.

"§ 81A-58. *Repeal of conflicting laws.*—All laws and parts of laws contrary to or inconsistent with the provisions of this Chapter are repealed except as to offenses committed, liabilities incurred, and claims made thereunder prior to the effective date of this Chapter."

Sec. 2. This act shall become effective on July 1, 1976.

In the General Assembly read three times and ratified, this the 11th day of June, 1975.

S. B. 462 **CHAPTER 545**

AN ACT TO AMEND G.S. 159-64 TO EXTEND THE TIME WITHIN WHICH BONDS AUTHORIZED ON OR AFTER JANUARY 1, 1971, MAY BE ISSUED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 159-64 is hereby amended by striking out the words "five years" in the second line thereof and inserting in lieu thereof the words "seven years".

Sec. 2. The provisions of this act shall apply to bonds authorized by bond orders which took effect from January 1, 1971, through the effective date of this act or which shall take effect hereafter.

Sec. 3. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 11th day of June, 1975.

S. B. 478 **CHAPTER 546**

AN ACT TO MODIFY THE PROVISIONS OF G.S. 159-64 AS APPLIED TO BONDS AUTHORIZED DURING THE PERIOD COMMENCING MARCH 1, 1968, AND ENDING DECEMBER 31, 1969, EXTENDING THE TIME WITHIN WHICH SUCH BONDS MAY BE ISSUED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 159-64 is hereby amended by striking out the words "five years" in the second line thereof and inserting in lieu thereof the words "eight years".

Sec. 2. The provisions of this act shall apply only to bonds authorized during the period commencing March 1, 1968, and ending December 31, 1969.

Sec. 3. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of June, 1975.

S. B. 638 **CHAPTER 547**

AN ACT TO ADJUST DEPARTMENT OF MOTOR VEHICLES' INSPECTION CERTIFICATE FEE TO RECOVER COST.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-183.7 as the same appears in the 1974 Cumulative Supplement to Volume 1C of the General Statutes is hereby rewritten to read as follows:

"§ 20-183.7. *Fees to be charged by safety equipment inspection station.*— Every inspection station, except self-inspectors as designated herein, shall charge a fee of three dollars ten cents ($3.10) for inspecting a motor vehicle to determine compliance with this Article and shall give the operator a receipt indicating the articles and equipment approved and disapproved; provided, that inspection stations approved by the commissioner, and operated under rules, regulations and supervision of any governmental agency, when inspecting vehicles required to be inspected by such agencies' rules and regulations and by

the provisions of this Part, may, upon approval by such inspection station and the payment of a fee of thirty-five cents (35¢), attach to the vehicle inspected a North Carolina inspection certificate as required by this Part. When the receipt is presented to the inspection station which issued it, at any time within 90 days, that inspection station shall reinspect the motor vehicle free of additional charge until approved. When said vehicle is approved, and upon payment to the inspection station of the fee, the inspection station shall affix a valid inspection certificate to said motor vehicle, and said inspection station shall maintain a record of the motor vehicles inspected which shall be available for 18 months. The Department of Motor Vehicles shall receive thirty-five cents (35¢) for each inspection certificate and these proceeds shall be placed in a fund designated the 'Motor Vehicle Safety Equipment Inspection Fund', to be used under the direction and supervision of the director of the budget for the administration of this Article."

Sec. 2. This act shall become effective January 1, 1976.

In the General Assembly read three times and ratified, this the 11th day of June, 1975.

S. B. 646 CHAPTER 548

AN ACT TO PROVIDE FOR PERMANENT LICENSE PLATES FOR VEHICLES REGISTERED TO SHELTERED WORKSHOPS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-84 is hereby amended by adding a new unnumbered paragraph after the sixth paragraph of said statute to read as follows:

"The Department of Motor Vehicles shall upon appropriate certification of financial responsibility issue to sheltered workshops recognized or approved by the Division of Vocational Rehabilitation Services of the Department of Human Resources upon application and payment of a fee of one dollar ($1.00) for each plate, a permanent registration plate for vehicles registered to and operated by such sheltered workshops. The initial one dollar ($1.00) fee required by this section and for this purpose shall be in full payment of the permanent registration plate issued for such vehicle operated by a sheltered workshop and such plates need not thereafter be renewed, and such plates shall be valid only when attached to the vehicle for which issued and then only so long as the vehicle is operated by the sheltered workshop designated on the registration card."

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 11th day of June, 1975.

S. B. 719 **CHAPTER 549**

AN ACT TO AMEND THE LOCAL GOVERNMENT BOND ACT TO PROVIDE THAT PROVIDING FACILITIES FOR THE PRODUCTION OF GAS IS A PURPOSE FOR WHICH BONDS MAY BE ISSUED BY A CITY AND TO AMEND G.S. 160A-311 TO PROVIDE THAT THE TERM "PUBLIC ENTERPRISE" INCLUDES GAS PRODUCTION, STORAGE AND TRANSMISSION SYSTEMS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 159-48(d)(4), as enacted by Chapter 780 of the Session Laws of 1971, as amended by Chapters 494 and 1037 of the Session Laws of 1973, and as the same appears in the 1974 Cumulative Supplement to Volume 3D of the General Statutes, is amended by inserting the word "production" between the words "facilities for the" and the word "storage", so that G.S. 159-48(d)(4) reads as follows:

"(4) Providing gas systems, including without limitation facilities for the production, storage, transmission and distribution of gas."

Sec. 2. G.S. 160A-311(4) is amended by inserting the words "production, storage, transmission, and" between the words "Gas" and "distribution", so that G.S. 160A-311(4) reads as follows:

"(4) Gas production, storage, transmission, and distribution systems;".

Sec. 3. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 11th day of June, 1975.

S. B. 743 **CHAPTER 550**

AN ACT TO MODIFY THE NORTH CAROLINA STATE HEARING AID DEALERS AND FITTERS LICENSING ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 93D-3(c) is hereby amended by adding a new subdivision (12) as follows:

"(12) fund, establish, conduct, approve and sponsor instructional programs for persons who hold an apprentice license and a license as well as for persons interested in obtaining adequate instruction or programs of study to qualify them for registration to the extent that the board deems such instructional programs to be beneficial or necessary."

Sec. 2. G.S. 93D-5 is hereby amended by adding a new subsection to be subsection (c) as follows:

"(c) No license shall be issued to any person until he has first held an apprentice license as set forth in G.S. 93D-9 for a period of at least one year; provided, that this subsection shall not apply to those persons qualified under G.S. 93D-6."

Sec. 3. G.S. 93D-11 is hereby amended by adding a new sentence at the end thereto as follows:

"The board may require all licensees to successfully attend and complete a course or courses of occupational instruction funded, conducted or approved or sponsored by the board on an annual basis as a condition to any license renewal

and evidence of satisfactory attendance and completion of any such course or courses shall be provided the board by the licensee."

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of June, 1975.

S. B. 747 CHAPTER 551

AN ACT TO INCREASE THE REPLACEMENT PERIOD REQUIRED FOR THE DEFERRAL OF TAX ON THE GAIN REALIZED ON THE SALE OF A PRINCIPAL RESIDENCE.

The General Assembly of North Carolina enacts:

Section 1. Division II of Article 4 of Chapter 105 of the General Statutes is hereby amended by amending G.S. 105-144.2 as follows:

(a) Deleting from subsection (a) the words "one year" as they appear twice in said subsection and by inserting in lieu thereof in both instances the figure and word "18 months".

(b) Deleting the words "one year" as they appear in subdivision (4) of subsection (c) and by inserting in lieu thereof the figure and word "18 months".

(c) Deleting the words "one year" as they appear twice in subdivision (5) of subsection (c) and by inserting in lieu thereof in both instances the figure and word "18 months", and by deleting the figure and word "18 months" as they appear in said subdivision and by inserting in lieu thereof the words "two years".

(d) Deleting the words "one year" as they appear in subsection (d) and by inserting in lieu thereof the figure and word "18 months".

(e) Deleting the words "one year" as they appear in subsection (h) and by inserting in lieu thereof the figure and word "18 months".

Sec. 2. This act shall become effective upon ratification, and shall apply to a principal residence that is sold after December 31, 1974.

In the General Assembly read three times and ratified, this the 11th day of June, 1975.

S. B. 794 CHAPTER 552

AN ACT TO PROVIDE THE JUDICIAL MACHINERY BY MEANS OF WHICH A TRUST CAN BE AMENDED TO PRESERVE THE FEDERAL ESTATE TAX CHARITABLE DEDUCTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 36-23.2 is amended by redesignating present subsections (b) and (c) as subsections (c) and (d) respectively, and by inserting after subsection (a) a new subsection (b), to read as follows:

"(b) In the case of a will executed before September 21, 1974, or a trust created before such date, if a federal estate tax deduction is not allowable at the time of a decedent's death because of the failure of an interest in property which passes from the decedent to a person, or for a use, described in Section 2055(a) of the Internal Revenue Code of 1954, to meet the requirements of Subsection 2055(e)(2)(A) of the Internal Revenue Code of 1954, then in order that such deduction shall nevertheless be allowable under Section 2055(e)(3) of the Internal Revenue Code of 1954, any judge of the superior court may, on application of any trustee, executor, administrator or any interested party and

either (1) with the written consent of the charitable remaindermen, the beneficiaries of the intervening interest not under any legal disability, and duly appointed guardians or guardians ad litem acting on behalf of any beneficiaries under legal disability, or (2) upon a finding that the interest of such beneficiaries are substantially preserved, order an amendment to the trust so that the remainder interest is in a trust which is a charitable remainder annuity trust, a charitable remainder unitrust (as those terms are described in Section 664 of the Internal Revenue Code of 1954) or a pooled income fund (as that term is described in Section 642(c)(5) of the Internal Revenue Code of 1954). In every such proceeding, the Attorney General, as representative of the public interest, shall be notified and given an opportunity to be heard."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of June, 1975.

S. B. 804 **CHAPTER 553**

AN ACT TO AUTHORIZE BANKS TO UTILIZE OFF-PREMISES CUSTOMER-BANK COMMUNICATIONS TERMINALS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 53-62 is hereby amended by redesignating subsections "(e)" and "(f)" as subsections "(f)" and "(g)", respectively, and by adding thereto a new subsection after subsection "(d)" to be designated subsection "(e)" as follows:

"(e) Subject to such rules and regulations as may be prescribed by the State Banking Commission with regard to their use, maintenance and supervision, any bank may establish off the premises of any principal office, branch or teller's window a customer-bank communications terminal, point-of-sale terminal, automated teller machine, automated banking facility or other direct or remote information processing device or machine whether manned or unmanned, through, or by means of which, information relating to any financial service or transaction rendered to the public is stored and transmitted, instantaneously or otherwise, to or from a bank, or other nonbank terminal, establishment and use of such a device or machine shall not be deemed a branch or teller's window and the capital requirements and standards for approval of a branch or teller's window, all as set forth in subsections (b) and (c) above, shall not be applicable to the establishment of any such off-premises terminal device or machine; provided, however, that no bank, savings and loan association, savings bank, credit union or any other financial institution which is not domiciled in North Carolina may establish in North Carolina any information processing device or machine described in this subsection."

Sec. 2. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 11th day of June, 1975.

S. B. 815 **CHAPTER 554**

AN ACT TO AMEND G.S. 15-180.2 BY PROVIDING THAT CERTAIN RECORDS AND TRANSCRIPTS MAY BE PROVIDED TO AN INDIGENT DEFENDANT PETITIONING THE APPELLATE DIVISION FOR A WRIT OF CERTIORARI.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15-180.2 is amended by inserting between the first and second paragraph thereof the following paragraph:

"Should a defendant, who is determined to be an indigent as provided in G.S. 7A-450, exercise his right to petition the appellate division for the issuance of a writ of certiorari, the presiding superior court judge may, in his discretion, order the preparation of the record and transcript of the proceedings. Fees for this shall be borne by the State."

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 11th day of June, 1975.

S. B. 826 **CHAPTER 555**

AN ACT TO AMEND G.S. 7A-31 IN ORDER THAT THE STATE BE PRECLUDED FROM PETITIONING THE SUPREME COURT OF NORTH CAROLINA TO REVIEW

A POST-CONVICTION PROCEEDING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-31(a) is amended by striking the words "or any cause involving review of a post-conviction proceeding" from the second paragraph thereof.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of June, 1975.

S. B. 873 **CHAPTER 556**

AN ACT TO AMEND G.S. 130-60 TO AUTHORIZE ISSUANCE OF A NEW BIRTH CERTIFICATE AFTER SEX REASSIGNMENT SURGERY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-60(a) as the same appears in Volume 3B of the General Statutes is hereby amended to add the following subdivision (4) immediately following subdivision (3) thereof:

"(4) A written request from an individual is received by the State Registrar to change the sex on his or her birth record because of sex reassignment surgery, provided that the request is accompanied by a notarized statement from a physician licensed to practice medicine stating that he performed the sex reassignment surgery or that, based on his physical examination of the individual, he or she has undergone sex reassignment surgery."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of June, 1975.

H. B. 106 **CHAPTER 557**

AN ACT TO EXTEND THE PROHIBITION AGAINST THE HUNTING OR TAKING OF BEAR IN TYRRELL COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It shall be unlawful for any person to take or hunt bear in the County of Tyrrell at any time prior to October 1, 1977, subject to the approval of the N. C. Wildlife Resources Commission.

Sec. 2. Violation of this act shall be a misdemeanor punishable by fine of not less than two hundred fifty dollars ($250.00) or imprisonment in the discretion of the court.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of June, 1975.

H. B. 429 **CHAPTER 558**

AN ACT TO AMEND G.S. CHAPTER 7A TO INCREASE CERTAIN COSTS OF COURT AND TO AUTHORIZE USE OF THE FACILITIES FEE TO PROVIDE FREE PARKING FOR JURORS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-304(a)(2) is amended, in line 2, by deleting "two dollars ($2.00)", and inserting in lieu thereof "three dollars ($3.00)", and in line 12, after "facilities;" by inserting "free parking for jurors;".

Sec. 2. G.S. 7A-304(a)(4) is amended on lines 1 and 2 by deleting "nine dollars ($9.00)", and inserting in lieu thereof "seventeen dollars ($17.00)".

Sec. 3. G.S. 7A-305(a)(1) is amended in lines 1 and 2 by deleting "two dollars ($2.00)" and in lines 2 and 3 by deleting "five dollars ($5.00)" and inserting in lieu thereof "three dollars ($3.00)" and "six dollars ($6.00)", respectively.

Sec. 4. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 13th day of June, 1975.

H. B. 664 **CHAPTER 559**

AN ACT TO ALLOW DEDUCTIONS FOR INDIVIDUAL INCOME TAX PURPOSES FOR CONTRIBUTIONS TO INDIVIDUAL RETIREMENT ACCOUNTS, INDIVIDUAL RETIREMENT ANNUITIES, OR RETIREMENT BONDS WHICH ARE DEDUCTIBLE FOR FEDERAL INCOME TAX PURPOSES AND TO PROVIDE THE METHOD OF TAXING DISTRIBUTIONS FROM SUCH ACCOUNTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-147(20) is hereby amended by inserting after the phrase "reasonable amounts paid by a self-employed individual or owner-employee to a retirement program pursuant to a plan adopted by such individual and approved by the Internal Revenue Service" and the semicolon (;) following said phrase, in line 8 of said subdivision, the following:

"reasonable amounts paid by or on behalf of an individual for his benefit to an individual retirement account described in Section 408(a) of the Internal

Revenue Code of 1954 as amended, for an individual retirement annuity described in Section 408(b) of the Internal Revenue Code of 1954 as amended, or for a retirement bond described in Section 409 of the Internal Revenue Code of 1954 as amended (but only if the bond is not redeemed within 12 months of the date of its issuance);".

Sec. 2. G.S. 105-161(f)(1) is hereby amended by renumbering paragraph (b) thereof as paragraph (c) and by adding after the current paragraph (a) a new paragraph (b) to read as follows:

"b. Any individual retirement account which is exempt from taxation under Section 408(e) of the Internal Revenue Code of 1954 as amended."

Sec. 3. G.S. 105-141(b)(19) is hereby amended by changing the period (.) at the end of current subsection (19) to a semicolon (;) and by adding after said semicolon (;) the following:

"and amounts earned during the income year by an individual retirement account described in Section 408(a) of the Internal Revenue Code of 1954 as amended, or an individual retirement annuity described in Section 408(b) of the Internal Revenue Code of 1954 as amended, provided that such individual retirement account or individual retirement annuity is exempt from federal income taxation under Section 408(e) of the Internal Revenue Code of 1954 as amended."

Sec. 4. G.S. 105-141(a) is hereby amended by deleting the word "and" at the end of subsection (18), by changing the period (.) at the end of subsection (19) to a semicolon (;) and by adding after said semicolon (;) the word "and", and by adding after subsection (19), as amended, a new subsection (20) to read as follows:

"(20) Subject to the provisions of G.S. 105-141(b)(4), amounts received or made available from:

(i) individual retirement accounts described in Section 408(a) of the Internal Revenue Code of 1954 as amended;

(ii) individual retirement annuities described in Section 408(b) of the Internal Revenue Code of 1954 as amended; and

(iii) retirement bonds described in Section 409 of the Internal Revenue Code of 1954 as amended to the extent such amounts are includable in the recipient's gross income under the Internal Revenue Laws of the United States."

Sec. 5. G.S. 105-142(d) is hereby amended by inserting immediately after the word "available" and immediately before the semicolon (;) in line 6 of the first unnumbered paragraph of said subsection the following:

"except to the extent such distribution is a rollover amount which is not includable in federal gross income under Section 402(a)(5) of the Internal Revenue Code of 1954 as amended, in the year in which distributed or made available", and by adding after the first unnumbered paragraph thereof and before the second unnumbered paragraph thereof two new paragraphs to read as follows:

"The amount paid or distributed out of an individual retirement account described in Section 408(a) of the Internal Revenue Code of 1954 as amended, or individual retirement annuity described in Section 408(b) of the Internal Revenue Code of 1954 as amended, shall be includable in the gross income of the payee or distributee to the extent such amounts are includable in the payee's or distributee's gross income for federal income tax purposes.

Subject to the provisions of G.S. 105-141(b)(4) the amount received or made available from a retirement bond described in Section 409 of the Internal Revenue Code of 1954 as amended, shall be included in the gross income of the payee or distributee to the extent such amounts are includable in the payee's or distributee's gross income for federal income tax purposes."

Sec. 6. G.S. 105-141(b)(17)b. is hereby amended by deleting the last unnumbered paragraph thereof which reads as follows:

"The provisions of this subdivision shall not apply to any amounts contributed by an employer pursuant to an agreement to take a reduction in salary or to forego an increase in salary."

Sec. 7. G.S. 105-212 is hereby amended by inserting after the phrase "nor to any funds, evidences of debt or securities held irrevocably in a pension, profit-sharing, stock bonus, or annuity plan established by an employer for the benefit of his employees or for himself and his employees if such plan qualifies for exemption from income tax under the provisions of G.S. 105-141(b)(19)" and the semicolon (;) following said phrase, in line 16 of the first unnumbered paragraph of said section, the following:

"nor to any funds, evidences of debt, or securities held in an individual retirement account described in Section 408(a) of the Internal Revenue Code of 1954 as amended, or an individual retirement annuity described in Section 408(b) of the Internal Revenue Code of 1954 as amended, if such individual retirement account or individual retirement annuity is exempt from income tax under the provisions of G.S. 105-161(f)(1)b. or G.S. 105-141(b)(19)."

Sec. 8. G.S. 105-228.5, as it appears in the 1974 Cumulative Supplement to Volume 2D of the General Statutes of North Carolina, is hereby amended by rewriting the third paragraph thereof to read as follows:

"Every insurer, in computing the premium tax, shall exclude from the gross amount of premiums all premiums received on or after July 1, 1973, from policies or contracts, issued in connection with the funding of a pension, annuity or profit-sharing plan, qualified or exempt under Sections 401, 403, 404, 408 or 501 of the United States Internal Revenue Code as now or hereafter amended and the gross amount of all such premiums shall be exempt from the tax levied by this section."

Sec. 9. Sections 1 through 7 of this act shall be effective for income years beginning on or after January 1, 1976, and Section 8 of this act shall be effective for income years beginning on or after January 1, 1975.

In the General Assembly read three times and ratified, this the 11th day of June, 1975.

H. B. 691 CHAPTER 560

AN ACT TO ADD COUNTIES IN THE THIRD JUDICIAL DISTRICT TO THE LIST OF COUNTIES WHICH ARE SUBJECT TO CHAPTER 85A OF THE GENERAL STATUTES REGULATING BAIL BONDSMEN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 85A-34 as the same appears in the 1974 Cumulative Supplement to Volume 2C of the General Statutes is hereby amended by inserting the word and punctuation "Carteret," after the word and punctuation "Caldwell," and before the word "Cleveland", by inserting the word and punctuation "Craven," after the word and punctuation "Cleveland," and before

the word "Gaston", and by inserting the word and punctuation "Pamlico," after the word and punctuation "Onslow," and before the word "Person", and by inserting the word and punctuation "Pitt," after the word and punctuation "Person," and before the word "Richmond", and by inserting immediately preceding the county name "Gaston" the county name and punctuation "Forsyth,".

Sec. 2. It is the intent of this act that Carteret, Craven, Pamlico, and Pitt and Forsyth Counties shall be subject to the provisions of Chapter 85A relating to bail bondsmen and runners.

Sec. 3. This act shall become effective September 1, 1975.

In the General Assembly read three times and ratified, this the 11th day of June, 1975.

H. B. 693 CHAPTER 561

AN ACT TO AMEND CHAPTER 1184 OF THE SESSION LAWS OF 1949, AS AMENDED, THE CHARTER OF THE CITY OF RALEIGH WITH RESPECT TO THE TOPICS OF: COUNCIL CAMPAIGN EXPENSES; CITY CLERK'S DUTIES; SOCIO-ECONOMIC PROGRAMS; ASSESSMENT EXEMPTIONS; EQUAL HOUSING; LANDLORD-TENANT RELATIONS; TRANSIT AUTHORITY; EMPLOYEE BENEFITS; BICYCLE LANES; ASSESSMENTS UPON ANNEXATION; AND SIDEWALK ASSESSMENTS.

The General Assembly of North Carolina enacts:

Section 1. Section 34 of the Raleigh City Charter, Chapter 1184 of the 1949 Session Laws of North Carolina, as amended, is hereby further amended by adding a sentence at the end of the first paragraph thereof, to appear as follows:

"Provided, however, that candidates' campaign expense reports required under Chapter 163 of General Statutes pursuant to this section shall be filed with the Clerk of Superior Court of Wake County."

Sec. 2. Section 56 of the Raleigh City Charter, Chapter 1184 of the 1949 Session Laws of North Carolina, as amended, is hereby further amended to appear as follows:

"56. *Same - Duties of city clerk.* The city clerk shall act as clerk of the city council and it shall be his or her duty to attend each meeting of the city council and to keep the minutes and records of all the proceedings of the city council in well bound books provided for that purpose, and to preserve all books, papers and writings of all kinds submitted to his or her care during his or her continuance in office, and deliver them to his or her successor; the city clerk shall be custodian of all written claims and demands made upon the city arising out of tort actions; the city clerk shall be the custodian of all signed petitions with reference to public improvements, condemnation proceedings and all contracts made and entered into by the city and of all notices and affidavits of publishers with reference to publication of ordinances, budgets, or other legal advertisements required to be made by the city; the city clerk shall be the custodian of the official corporate seal of the City of Raleigh and shall attest and affix said official seal to all documents or instruments of the city required to be so attested and sealed; he or she shall be custodian of all bonds required by ordinance, contract or by law to be executed and deposited with the city; he or

she shall be the custodian of all deeds or conveyances of all types made to the city, and it shall be his or her duty to file with the Register of Deeds of Wake County for the purpose of being recorded in the Registry of Wake County; and the city clerk shall account and pay over all moneys which may come into his or her hands by virtue of his or her office; and the city clerk shall perform such other duties as may be required by law or by the city council."

Sec. 3. Section 22(70) of the Raleigh City Charter, Chapter 1184 of the 1949 Session Laws of North Carolina, as amended, is hereby further amended to appear as follows:

"(70) *Engage in socio-economic programs.* (a) Subject to the conditions hereinafter set forth, the City of Raleigh, through its governing body, shall have the power to undertake, endorse, administer, operate and maintain and to expend federal tax revenues returned to the city under the designation of general or special revenue sharing funds, or any other title, and consistently with the terms under which such funds are returned, and all other public funds with the exception set forth in subparagraph (e) below, for 'socio-economic public improvement programs' and 'crime prevention programs,' including but not being limited to those initiated pursuant to the provisions of the Federal Economic Opportunity Act (42 U. S. C. Subsection 2701 et seq.) for the purpose of serving the public interest and well-being of the community and its citizens.

(b) The city council may appoint or create such agencies, committees or boards as it may deem necessary in carrying out such programs and may authorize their employment of personnel. In undertaking and engaging in such programs, the city council may enter into contracts with and accept grants from appropriate branches of the State and federal governments and from public or private corporations, foundations and individuals, and is authorized to make grants to, or to contract with, appropriate public or private nonprofit agencies or combinations thereof, to pay part of or all of the costs of programs conducted by such agencies which assist in fulfilling the purposes of this section.

(c) For the purposes of this section, a 'social, economic public self-improvement program' shall be defined as one devoted to and designed toward improving and promoting the general well-being of certain classes of citizens, without regard to race, religion, sex or national origin, in their human and economic relationship with society and which provides services, assistance, and other activities of sufficient scope and size to give promise of progress toward elimination of poverty or a cause or causes of poverty through developing employment opportunities, improving human performance, motivation, and productivity, or bettering the conditions under which people live, learn, and work; including but not limited to programs:

(1) to promote development of community facilities and services,

(2) to promote consumer education,

(3) to assist all participants to secure and retain meaningful employment,

(4) to assist all participants to attain an adequate education,

(5) to assist participants in making better use of available income,

(6) to provide and maintain adequate housing and a suitable living environment,

(7) to promote family planning, consistent with personal and family goals, religious and moral convictions,

(8) to provide assistance to citizens through loans or grants to meet immediate and urgent individual and family needs, including the need

for health services, nutritious food, housing and employment-related assistance,

(9) to remove obstacles and solve personal and family problems which block the achievement of self-sufficiency.

(10) designed to assist participants to achieve greater participation in the affairs of the community,

(11) designed to assist participants in making more frequent and effective use of other programs related to the purposes of this Article.

For the purposes of this section, a 'crime prevention program' shall mean any type of citizen participation program primarily designed as a deterrent to crime and for the purpose of reducing the level and the magnitude of crime in the city; any such program shall be coordinated with the general efforts of the law enforcement agency of the City of Raleigh to minimize the occurrences of crime in the community.

(d) The powers expressed herein are not intended to nor shall they encroach in any manner upon the powers, duties and responsibilities of Wake County in any health, social, educational or welfare programs being administered by said county.

(e) Property tax revenues may be expended for 'social-economic public improvement programs' and 'crime prevention programs' as defined in this section if approved by a majority of the qualified voters as required by Article V, Section 2 of the North Carolina Constitution."

Sec. 4. Section 22 of the Raleigh City Charter, Chapter 1184 of the 1949 Session Laws of North Carolina, as amended, is hereby further amended by adding a new subsection thereto, designated (71) and to appear as follows:

"(71) To establish schedules of exemptions from special assessments for lots at the intersection of streets or other lots which would be assessed for a duplicating service when a project is or has been undertaken along or across two sides of such lots. The schedules of exemptions may be based on categories of land use (residential, commercial, industrial or agricultural) and shall be uniform for each category. The schedule of exemptions may not provide exemption of more than seventy-five percent (75%) of the frontage of any lot abutting on the project, or 150 feet, whichever is greater."

Sec. 5. Section 22 of the Raleigh City Charter, Chapter 1184 of the 1949 Session Laws of North Carolina, as amended, is hereby further amended by adding a new subsection, designated (72) and to appear as follows:

"(72) *Equal housing.* To adopt ordinances designed to insure that housing opportunities in the City of Raleigh shall be equally available to all persons without regard to race, color, religion, sex or national origin. Such ordinances may regulate or prohibit any act, practice, activity or procedure related directly or indirectly to the sale or rental of public or private housing which affects or may tend to affect the availability or desirability of housing on an equal basis to all persons. Such ordinances may provide that violations constitute a criminal offense; may subject the offender to civil penalties; may provide that the city may enforce the ordinances by application to the General Court of Justice for appropriate equitable remedies, including mandatory and prohibitory injunctions and orders of abatement."

Sec. 6. Section 22 of the Raleigh City Charter, Chapter 1184 of the 1949 Session Laws of North Carolina, as amended, is hereby further amended by adding a new subsection thereto, designated (74) and to appear as follows:

"(74) *Establishment of transit authority.* (a) To establish, by ordinance, a Raleigh Transit Authority (hereinafter referred to as the 'authority'), a body corporate and politic, which shall consist of no less than five nor more than 11 members, to exercise and to have all or any combination of powers and duties, as determined by the Raleigh City Council, conferred by this act or by General Statutes upon municipal corporations relating to acquisition, establishment, operation, maintenance, control, and financing of transit systems. The City Council of the City of Raleigh is hereby authorized to exercise all powers and duties conferred by this act or by General Statutes relating to acquisition, establishment, operation, maintenance, control, and financing of transit systems.

(b) Members of the Raleigh Transit Authority shall reside within the area comprised of the corporate limits and the extraterritorial zoning jurisdiction of the City of Raleigh, as such area now exists or as it may change in accordance with law. The chairman and membership of the authority shall be appointed by the City Council of the City of Raleigh for such terms as the city council may determine. The membership of the authority shall elect a vice-chairman and whatever other officers it deems appropriate from its membership.

A majority of the membership of the authority shall constitute a quorum for the transaction of business and an affirmative vote of the majority of the members present at a meeting shall be required to constitute action of the authority. Members of the authority shall receive such compensation, if any, as may be fixed by the City Council of the City of Raleigh.

(c) The purpose of the authority shall be to provide for a safe, adequate, and convenient public transportation system for the City of Raleigh and its environs.

(d) The general powers of the authority shall be:

(1) To sue and be sued.

(2) To have a seal.

(3) To purchase, acquire, hold, own, control, and lease real and personal property, and to surrender to the City of Raleigh by appropriate instrument any property no longer required by the authority.

(4) To make or enter into, contracts, agreements, leases, conveyances or other instruments, including grants, contracts and agreements with the State of North Carolina and the United States.

(5) With the approval of the city manager, to use officers, employees, agents and facilities of the City of Raleigh on such basis as may be agreed upon.

(6) To contract with private management companies for operation of a transit system.

(7) To establish rates, fares, and schedules for operation of a transit system.

(8) To do all things necessary or convenient to carry out its purpose and for the exercise of the powers granted herein, consistent with the ordinance or ordinances adopted by the Raleigh City Council for its establishment and operation, and consistent with this act.

(e) The authority shall be fiscally accountable to the City of Raleigh and the city council and the city finance director shall have authority to examine all records and accounts of the authority at any time.

(f) The establishment and operation of an authority as herein authorized as a governmental function and a public purpose and the City of Raleigh is hereby authorized to appropriate funds to support the establishment and operation of

the authority. The City of Raleigh may also dedicate, sell, convey, donate or lease any of its interest in any property to the authority.

(g) The City Council of the City of Raleigh shall have authority to terminate the existence of the authority at any time. In the event of such termination, all property and assets of the authority shall automatically become the property of the City of Raleigh and the City of Raleigh shall succeed to all rights, obligations and liabilities of the authority."

Provided, insofar as the provisions of this section are not consistent of any other section or law, public or private, the provisions of this section shall be controlling.

Sec. 7. Section 22 of the Raleigh City Charter, Chapter 1184 of the 1949 Session Laws of North Carolina, as amended, is hereby further amended by adding a new subsection thereto, designated (75) and to appear as follows:

"To credit a new employee with accumulated sick leave and vacation leave earned with another municipality of this State, North Carolina State Government, or the federal government (including military service), provided such new employee's last prior employment was with such named governmental entity."

Sec. 8. Section 22 of the Raleigh City Charter, Chapter 1184 of the 1949 Session Laws of North Carolina, as amended, is hereby further amended by adding a new subsection thereto, designated (76) and to appear as follows:

"(76) To develop and adopt regulations concerning the use of bicycles within the city limits and the establishment of bikeways (thoroughfares suitable for bicycles) on city streets which may exist within the right-of-way of other modes of transportation, such as highways, or along separate and independent corridors. Such regulations may include the establishment of traffic regulations for bicycles traveling on designated bikeways different than those established for other types of vehicular traffic including the establishment of two-way bicycle traffic lanes on existing roadways. The City of Raleigh shall not establish bikeways or adopt traffic regulations concerning bicycle traffic on streets or highways under the authority and control of the Board of Transportation without first obtaining approval of any such proposals from said board."

Sec. 9. Section 89 of the Raleigh City Charter, Chapter 1184 of the 1949 Session Laws of North Carolina as amended is hereby further amended to appear as follows:

"Sec. 89. *City owned utilities; establishment and operation of water, sewer and other utility systems.* The city shall have the power to acquire, provide, construct, establish, own, maintain and operate its own light and waterworks system and sewerage system, and to furnish water, light and sewerage service to the citizens and residents of the city; and to furnish such services or any of them to any person, firm, or corporation outside the corporate limits, where any such service is available, upon such terms and conditions as may be prescribed by the city council, in its discretion; and the city council shall have full and complete control, supervision and management of said public utility systems and each of them. The city is authorized to make special assessments following the procedures provided by the General Statutes against benefited property within its corporate limits for constructing, reconstructing, extending and otherwise building or improving water lines and sanitary sewer lines. The city shall not be under any legal obligation to extend or render any services to anyone outside the corporate limits, except as may be required by contract lawfully made by the

city. Upon annexation of any area to its corporate limits, the city is authorized to make special assessments against benefited property for water lines and sanitary sewer lines which were extended to said area at any time prior to its annexation. The city shall not in any case be liable to any person, firm or corporation, resident or nonresident, for damages for a failure to furnish a sufficient supply or particular quality of either water, sewer service, or light for any purpose. The city council shall have the power to adopt such rules and regulations as may be considered necessary or expedient, in the discretion of the city council, to provide for the protection, maintenance, management and operation of such systems of the city, and may appoint special officers to enforce the ordinances, rules and regulations of the City of Raleigh, the laws of the State of North Carolina, and the applicable rules and regulations of the State Board of Health. Such special officers shall be vested with the authority of peace officers within, but only within, the area to which they are assigned."

Sec. 10. Subsection (c) of Section 105 of the Raleigh City Charter, Chapter 1184 of the 1949 Session Laws of North Carolina, as amended, is hereby further amended to appear as follows:

"(c) *Sidewalk on one side of street.* If a sidewalk is constructed on only one side of the street, the cost thereof may be assessed against the property abutting on both sides of the street, unless there already exists a sidewalk on the other side of the street, the total cost of which was assessed against the abutting property."

Sec. 11. Except as provided herein, all laws and clauses of laws in conflict herewith are hereby repealed.

Sec. 12. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of June, 1975.

H. B. 1127 CHAPTER 562

AN ACT TO TAX AND REGULATE PROFESSIONAL BONDSMEN IN HARNETT COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Every person, firm, association or corporation, who shall engage in the business of signing, executing, and becoming surety on appearance bonds in any court in Harnett County for a fee or compensation, shall apply for and obtain from the County of Harnett, and each city or town in said county in which such business is engaged in, a license for the privilege of engaging in such business. The amount of said license tax shall be fixed by the Board of County Commissioners of Harnett County and the governing bodies of the cities and towns therein, and shall not be in excess of the maximum which counties, cities and towns are authorized to levy on professional bondsmen, under the provisions of the Revenue Act of the State of North Carolina, as amended. Said license shall be for a period of one year and shall expire on the thirty-first day of May of each year.

Sec. 2. In addition to the privilege license provided for in Section 1 of this act, every person, firm, association or corporation, who shall engage in the business of signing, executing and becoming surety on appearance bonds in any court in Harnett County for a fee or compensation, shall, as a condition precedent to signing, executing, and becoming surety upon any appearance bond,

deposit with the Clerk of the Superior Court of Harnett County not less than five thousand dollars ($5,000) in cash or marketable securities approved by the clerk and shall, at the same time, post an agreement with the Clerk of the Superior Court of Harnett County that such cash or marketable securities shall, at all times, be available for the purpose of the payment of any bonds signed by such person, firm, association or corporation, which has been declared by the court to be forfeited. If the amount of any such forfeited bond is not paid within 10 days from the date of the forfeiture, the Clerk of the Superior Court of Harnett County is authorized to apply the amount of the forfeiture out of said deposit and the person, firm, association or corporation, whose deposit is thus reduced, shall immediately, upon notice by the Clerk of the Superior Court of Harnett County, deposit an additional sum with the Clerk of the Superior Court of Harnett County in order that the deposit shall always be in at least the sum of five thousand dollars ($5,000) either in cash or marketable securities. The Clerk of the Superior Court of Harnett County is hereby authorized to deposit the funds received under this section in any bank or building and loan association and to become trustee of the said deposits.

No bondsman shall be allowed to sign an individual bond which shall exceed two-fifths (2/5) of the deposit with the clerk of superior court. No bondsman shall be allowed to sign bonds when his aggregate amount of outstanding bonds totals six times his deposit. No bondsman may receive a refund of his deposit until such time as all outstanding bonds are settled and the bondsman has surrendered his license to sign bonds in Harnett County and produced proof of same to the clerk of superior court. The clerk of superior court shall notify all persons authorized to take bonds of the license surrender.

Sec. 3. No person, firm, association, or corporation, who shall execute or become surety upon any appearance bond in any court in Harnett County, shall charge a fee therefor, and for all services in connection therewith, an amount not in excess of fifteen percent (15%) of the amount of said bond.

Sec. 4. No bondsman shall be allowed to solicit business in any of the courts or on the premises of any of the courts of this State, in the office of any magistrate and in or about any place where prisoners are confined. Loitering in or about a magistrate's office or any place where prisoners are confined shall be prima facie evidence of soliciting.

Sec. 5. Any person, firm, association, or corporation, who shall engage in the business defined in Section 1 of this act without securing the privilege license and making the deposit required by this act, or who violates any of the other provisions of this act, shall be guilty of a misdemeanor and upon conviction shall be fined or imprisoned in the discretion of the court.

Sec. 6. This act shall not apply to surety or bonding companies regularly licensed by the Insurance Department of the State of North Carolina.

Sec. 7. This act shall apply to Harnett County only.

Sec. 8. All laws and clauses of laws in conflict with this act are hereby repealed to the extent of such conflict.

Sec. 9. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of June, 1975.

S. B. 67 **CHAPTER 563**

AN ACT TO AMEND CHAPTER 1293 OF THE 1973 (2ND SESSION, 1974) SESSION LAWS.

The General Assembly of North Carolina enacts:

Section 1. In Section 2 of Chapter 1293 of the 1973 (2nd Session, 1974) Session Laws add a second sentence to read as follows: "This policy shall be the practice of the State for children from birth through age 21 and the State requires compliance by all local education agencies and city and county administrative units, all local human resources agencies including, but not limited to, local health departments, local social service departments, community mental health centers and all State departments, agencies, institutions except institutions of higher education, and private providers which are recipients of General Funds as these funds are defined in G.S. 143-1".

Sec. 2. In Section 3 (a) of Chapter 1293 of the 1973 (2nd Session, 1974) Session Laws add the following after the first sentence: "The General Assembly finds that the complexity of early childhood development precludes the enactment of legislation which is of a sufficiently comprehensive nature to encompass all possible implications. The Departments of Public Instruction and Human Resources shall, therefore, jointly develop an early childhood development program plan with flexibility sufficient to meet the State's policy as set forth in this subsection. Said plan shall provide for the operation of a statewide early childhood development program no later than June 30, 1980, and shall be presented to the Commission on Children with Special Needs by February 2, 1976."

Sec. 3. In Section 3(b) of Chapter 1293 of the 1973 (2nd Session, 1974) Session Laws, the first sentence, delete the words "shall develop" and substitute in lieu thereof the word "requires". In the second line, change the word "require" to "requires".

Sec. 4. In Section 3(c) of Chapter 1293 of the 1973 (2nd Session, 1974) Session Laws delete the semicolon(;), substitute a period (.) after the sentence, and add the following: "Each local education agency shall develop program plans to meet the educational requirements of children with special needs and each local human resources agency shall develop program plans to meet the human service requirements of children with special needs in accordance with program standards and in a planning format as shall be prescribed by the State Board of Education and the Department of Human Resources respectively. The State Board and the Secretary of Human Resources shall present a summary of said present program standards and planning format to the Commission on Children with Special Needs by February 2, 1977, and to the General Assembly for its approval.

The General Assembly intends that the educational program and human service program requirements of this act shall be realized no later than June 30, 1982. The General Assembly further intends that currently imposed barriers to educational and human service opportunities for children with special needs by reason of a single standardized test, income, federal regulations, conflicting statutes, or any other barriers are hereby abrogated; except that with respect to barriers caused by reason of income, it shall be permissible for the State or any local education agency or local human resources agency to charge fees for special services rendered, or special materials furnished to a child with special needs, his

parents, guardian or persons standing in loco parentis unless the imposition of such fees would prevent or substantially deter the child, his parents, guardian, or persons standing in loco parentis from availing themselves of or receiving such services or materials".

Sec. 5. In Section 3(d) of Chapter 1293 of the 1973 (2nd Session, 1974) Session Laws add the following after the first sentence: "The General Assembly requires that all programs employ least restrictive alternatives as shall be defined by the Department of Public Instruction and Human Resources".

Sec. 6. Delete all of Section 6 as it appears in Chapter 1293 of the 1973 (2nd Session, 1974) Session Laws and substitute a new Section 6 to read as follows: "Sec. 6. The Departments of Public Instruction and Human Resources shall jointly develop and promulgate procedures for the establishment and operation of an annual on-going census of children with special needs. Local education agencies through their respective superintendents shall have primary responsibility for conducting the census in each local education agency and each local human resources agency shall cooperate and actively participate in said census. Said census shall be for the purposes of aiding local providers and the respective departments in anticipating personnel, equipment and budgetary requirements; and shall permit the General Assembly to ensure that all children with special needs are identified and that appropriate programs are provided".

Sec. 7. In Section 7 of Chapter 1293 of the 1973 (2nd Session, 1974) Session Laws add the following after the last sentence: "The Departments of Public Instruction and Human Resources shall each develop and promulgate such standards, rules and regulations as may be necessary to develop and implement the educational and human service program requirements of this act; and shall cause appropriate internal organizational realignments within the respective departments which are designed to enhance the planning, educational program and human service program development and delivery, orderly implementation, and monitoring requirements established by this act".

Sec. 8. In Section 10(2) of Chapter 1293 of the 1973 (2nd Session, 1974) Session Laws after the word "promptly" delete the comma (,) and insert the words "via parent or guardian conference or,".

Sec. 9. In Section 10(7) of Chapter 1293 of the 1973 (2nd Session, 1974) Session Laws change "31" to read "33"; and "134" to read "143".

Sec. 10. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of June, 1975.

S. B. 147 CHAPTER 564

AN ACT TO BE KNOWN AS THE LEGISLATIVE ETHICS ACT.

The General Assembly of North Carolina enacts:

Section 1. A new Article is added to Chapter 120 of the General Statutes, to read as follows:

"Article 12.

"Legislative Ethics Act.

"A. Code of Legislative Ethics.

"§ 120-58. *Definitions.*—As used in this Article:

(a) 'Business with which he is associated' means any enterprise, incorporated or otherwise, doing business in the State of which the legislator or any member

of his immediate household is a director, officer, owner, partner, employee, or of which the legislator and his immediate household, either singularly or collectively, is a holder of securities worth five thousand dollars ($5,000) or more at fair market value as of December 31 of the preceding year, or constituting five percent (5%) or more of the outstanding stock of such enterprise.

(b) 'Immediate household' means the legislator, his spouse, and all dependent children of the legislator.

(c) 'Vested trust' as set forth in G.S. 120-68(d) means any trust, annuity or other funds held by a trustee or other third party for the benefit of the member or a member of his immediate household.

"§ 120-59. No person shall offer or give to a legislator or a member of a legislator's immediate household, or to a business with which he is associated, and no legislator shall solicit or receive, anything of monetary value, including a gift, favor or service or a promise of future employment, based on any understanding that such legislator's vote, official actions or judgment would be influenced thereby, or where it could reasonably be inferred that the thing of value would influence the legislator in the discharge of his duties.

"§ 120-60. No legislator shall use or disclose confidential information gained in the course of or by reason of his official position or activities in any way that could result in financial gain for himself, a business with which he is associated or a member of his immediate household or any other person.

"§ 120-61. When a legislator must act on a legislative matter as to which he has an economic interest, personal, family, or client, he shall consider whether his judgment will be substantially influenced by the interest, and consider the need for his particular contribution, such as special knowledge of the subject matter, to the effective functioning of the legislature. If after considering these factors the legislator concludes that an actual economic interest does exist which would impair his independence of judgment, then he shall not take any action to further the economic interest, and shall ask that he be excused, if necessary, by the presiding officer in accordance with the rules of the respective body. If the legislator has a material doubt as to whether he should act, he may submit the question to the Legislative Ethics Committee for an advisory opinion in accordance with G.S. 120-76.

"B. Statement of Economic Interest.

"§ 120-62. *Statement of Economic Interest by legislative candidates; filing required.*—Every person who files as a candidate for nomination or election to a seat in either house of the General Assembly shall file a Statement of Economic Interest as specified in this act within 10 days of the filing deadline for the office he seeks.

"§ 120-63. *Place and manner of filing.*—The Statement of Economic Interest shall cover the preceding calendar year and shall be filed at the same place, and in the same manner, as the notice of candidacy which a candidate seeking party nomination for the office of State Senator or Member of the State House of Representatives is required to file under the provisions of G.S. 163-106.

"§ 120-64. *Certification of Statements of Economic Interest.*—The chairman of the county board of elections with which a Statement of Economic Interest is filed shall forward a certified copy of the statement to the State Board of Elections and the offices to which copies of the notice of candidacy filed by a candidate seeking party nomination for the office of State Senator or Member of

the State House of Representatives is required to be forwarded under the provisions of G.S. 163-108.

"§ 120-65. *Filing by candidates not nominated in primary elections.*—A person who is nominated pursuant to the provisions of G.S. 163-114 after the primary and before the general election, and a person who qualifies, pursuant to the provisions of G.S. 163-122 as an independent candidate in a general election shall file with the county board of elections of each county in the senatorial or representative district a Statement of Economic Interest. A person nominated pursuant to G.S. 163-114 shall file the statement within three days following his nomination, or not later than the day preceding the general election, whichever occurs first. A person seeking to qualify as an independent candidate under G.S. 163-122 shall file the Statement of Economic Interest with the petition filed pursuant to that section. A person elected pursuant to G.S. 163-11 (Vacancy in office) shall file a Statement of Economic Interest within 10 days after taking the oath of office.

"§ 120-65.1. *County boards of elections to notify candidates of Economic Interest Statement requirements.*—Each county board of elections shall provide for notification of the Economic Interest Statement requirements of G.S. 120-67 and G.S. 120-68 to be given to any candidate filing for nomination or election to the General Assembly at the time of his or her filing in the particular county.

"§ 120-66. *Statements of Economic Interest are public records.*—The Statements of Economic Interest are public records and shall be made available for inspection and copying by any person during normal business hours at the office of the various county boards of election where the statements or copies thereof are filed. If a county board of elections of a county does not keep an office open during normal business hours each day, that board shall deliver a copy of all Statements of Economic Interest filed with it to the Clerk of Superior Court of the county, and the Statements shall be available for inspection and copying by any person during normal business hours at that Clerk's Office.

"§ 120-67. *Legislators to File Statement of Economic Interest with Legislative Services Office.*—Every member of the General Assembly however selected, shall, by January 15 next following his election file a Statement of Economic Interest with the Legislative Services Officer of the General Assembly. A copy of the Statement so filed shall be placed in the Legislative Library and shall be available for inspection and copying by any person during normal library hours. On or before December 16 of the year members of the General Assembly are elected, the Legislative Services Officer shall cause notice of the filing requirement of this section to be mailed to all elected members of the General Assembly.

"§ 120-68. *Contents of Statement.*—Any Statement of Economic Interest filed under this act shall be on a form prescribed by the Committee, and the person filing the Statement shall supply the following information:

(a) The identity, by name, of any business with which he, or any member of his immediate household, is associated;

(b) The character and location of all real estate of a fair market value in excess of five thousand dollars ($5,000), other than his personal residence (curtilage), in the State in which he, or a member of his immediate household

has any beneficial interest, including an option to buy and a lease for 10 years or over;

(c) The type of each creditor to whom he, or a member of his immediate household owes money, except indebtedness secured by lien upon his personal residence only, in excess of five thousand dollars ($5,000);

(d) The name of each 'vested trust' in which he or a member of his immediate household has a financial interest in excess of five thousand dollars ($5,000) and the nature of such interest;

(e) The name and nature of his and his immediate household member's respective business or profession or employer and the types of customers and types of clientele served;

(f) A list of businesses with which he is associated that do business with the State, and a brief description of the nature of such business;

(g) In the case of professional persons and associations, a list of classifications of business clients which classes were charged or paid two thousand five hundred dollars ($2,500) or more during the previous calendar year for professional services rendered by him, his firm or partnership. This list need not include the name of the client but shall list the type of the business of each such client or class of client, and brief description of the nature of the services rendered.

"§ 120-69. *Updating statements.*—Each person who is required to file a Statement of Economic Interests under this act shall file an updated Statement at the office required by this act by January 15 of the second year following his or her election on a form prescribed by the Legislative Ethics Committee. The Committee shall forward the form to those required to file same on or before December 16.

"§ 120-70. *Penalty for failure to file.*—(a) In the case of a candidate, if the Statement of Economic Interest required by this Article is not filed when required herein, the county board of elections shall immediately notify the candidate that his name will not be placed on the ballot unless the Statement is received within 15 days. If the Statement is not received within 15 days, the candidate shall be disqualified and his filing fee returned.

(b) In the case of a member, willful failure to file shall result in that member's not being allowed to take the oath of office or enter or continue upon his duties or receive any compensation from public funds provided, however, the Committee may, for good cause shown, allow said member to file the required Statement and remove his disability.

"C. Legislative Ethics Committee.

"§ 120-71. *Creation; composition.*—The Legislative Ethics Committee is created to consist of a chairman and eight members, four Senators appointed by the President of the Senate, two from a list of four submitted by the Majority Leader and two from a list of four submitted by the Minority Leader, and four members of the House of Representatives appointed by the Speaker of the House, two from a list of four submitted by the Majority Leader and two from a list of four submitted by the Minority Leader.

The President of the Senate shall designate a member of the General Assembly as Chairman of the Committee in odd-numbered years, and the Speaker of the House shall designate a member of the General Assembly as Chairman of the Committee in even-numbered years. The chairman will vote only in the event of a tie vote.

"§ 120-72. *Term of office; vacancies.*—Initial members of the Legislative Ethics Committee shall be appointed as soon as practicable after the ratification of this Article and shall serve until the expiration of their current terms as members of the General Assembly. Thereafter, appointments shall be made immediately after the convening of the regular session of the General Assembly in odd-numbered years, and appointees shall serve until the expiration of their then current terms as members of the General Assembly. The chairman shall serve for one year and shall be appointed each year. A vacancy occurring for any reason during a term shall be filled for the unexpired term by the authority making the appointment which caused the vacancy, and the person appointed to fill the vacancy shall, if possible, be a member of the same political party as the member who caused the vacancy.

"§ 120-73. *Quorum; expenses of members.*—Five members constitute a quorum of the Committee. A vacancy on the Committee does not impair the right of the remaining members to exercise all the powers of the Committee.

The chairman and members of the Committee, while serving on the business of the Committee, are performing legislative duties and are entitled to the subsistence and travel allowances to which members of the General Assembly are entitled when performing legislative duties.

"§ 120-74. *Powers and duties of Committee.*—In addition to the other powers and duties specified in this Article, the Committee has the following powers and duties:

(a) To prescribe forms for the Statements of Economic Interest and other reports required by this Article, and to furnish these forms to persons who are required to file statements or reports.

(b) To receive and file any information voluntarily supplied that exceeds the requirements of this Article.

(c) To organize in a reasonable manner statements and reports filed with it and to make these statements and reports available for public inspection and copying during regular office hours. Copying facilities shall be made available at a charge not to exceed actual cost.

(d) To preserve statements and reports filed with the Committee for a period of 10 years from the date of receipt. At the end of the 10-year period, these documents shall be destroyed.

(e) To prepare a list of ethical principles and guidelines to be used by each legislator in determining his role in supporting or opposing specific types of legislation, and to advise each General Assembly committee of specific danger areas where conflict of interest may exist and to suggest rules of conduct that should be adhered to by committee members in order to avoid conflict.

(f) To advise General Assembly committees, at the request of a committee chairman, or at the request of three members of a committee, about possible points of conflict and suggested standards of conduct of committee members in the consideration of specific bills or groups of bills.

(g) To suggest to legislators activities which should be avoided.

"§ 120-75. *Possible violations; procedures; disposition.*—(a) Institution of proceedings. On its own motion, or in response to signed and sworn complaint of any individual filed with the Committee, the Committee shall inquire into any alleged violation of any provision of this Article.

(b) Notice and hearing. If, after such preliminary investigation as it may make, the Committee determines to proceed with an inquiry into the conduct of

any individual, the Committee shall notify the individual as to the fact of the inquiry and the charges against him and shall schedule one or more hearings on the matter. The individual shall have the right to present evidence, cross-examine witnesses, and be represented by counsel at any hearings. The Committee may, in its discretion, hold hearings in closed session; however, the individual whose conduct is under inquiry may, by written demand filed with the Committee, require that all hearings before the Committee concerning him be public or in closed session.

(c) Subpoenas. The Committee may issue subpoenas to compel the attendance of witnesses or the production of documents, books or other records. The Committee may apply to the Superior Court to compel obedience to the subpoenas of the Committee. Notwithstanding any other provision of law, every State agency, local governmental agency, and units and subdivisions thereof shall make available to the Committee any documents, records, data, statements or other information, except tax returns or information relating thereto, which the Committee designates as being necessary for the exercise of its powers and duties.

(d) Disposition of cases. When the Committee has concluded its inquiries into alleged violations, the Committee may dispose of the matter in one of the following ways:

(1) The Committee may dismiss the complaint and take no further action. In such case the Committee shall retain its records and findings in confidence unless the individual under inquiry requests in writing that the records and findings be made public.

(2) The Committee may, if it finds substantial evidence that a criminal statute has been violated, refer the matter to the Attorney General for possible prosecution through appropriate channels.

(3) The Committee may refer the matter to the appropriate House of the General Assembly for appropriate action. That House may, if it finds the member guilty of unethical conduct as defined in this Article, censure, suspend or expel the member.

"§ 120-76. *Advisory opinions.*—At the request of any member of the General Assembly, the Committee shall render advisory opinions on specific questions involving legislative ethics. These advisory opinions, edited as necessary to protect the identity of the legislator requesting the opinion, shall be published periodically by the Committee.

"§ 120-77. *Continuing study of ethical questions.*—The Committee shall conduct continuing studies of questions of legislative ethics including revisions and improvements of this act as well as sections to cover the administrative branch of government and shall report to the General Assembly from time to time recommendations for amendments to the statutes and legislative rules which the Committee deems desirable in promoting, maintaining and effectuating high standards of ethics in the legislative branch of State government."

Sec. 2. The provisions of this act shall apply to the presiding officers of the General Assembly.

Sec. 3. This act shall become effective on December 1, 1975.

In the General Assembly read three times and ratified, this the 12th day of June, 1975.

S. B. 198 **CHAPTER 565**

AN ACT TO AMEND ARTICLE 22A OF CHAPTER 163 OF THE GENERAL STATUTES RELATING TO CONTRIBUTIONS AND EXPENDITURES IN POLITICAL CAMPAIGNS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-278.9(a), (b) and (c) are hereby rewritten to read as follows:

"(a) The treasurer of each candidate and of each political committee shall file under verification with the board the following reports:

(1) Organizational Report. The appointment of the treasurer as required by G.S. 163-278.7(a), the statement of organization required by G.S. 163-278.7(b), and a report of all contributions and expenditures not previously reported shall be filed with the board no later than the 10th day following the day the candidate files his notice of candidacy or the 10th day following the organization of the political committee, whichever occurs first.

(2) Pre-Primary Report. The treasurer shall file a report with the board no later than the 10th day preceding the primary election.

(3) Postprimary Report(s). The treasurer shall file a report with the board no later than the 10th day after the primary election. If there is a second primary or runoff election, a report shall be filed no later than the 10th day after the second primary or runoff election by candidates or committees involved therein.

(4) Pre-Election Report. The treasurer shall file a report with the board not later than the 10th day preceding the general election.

(5) Final Report. The treasurer shall file a final report no later than the 10th day after the general election. If the final report fails to disclose a final accounting of all contributions and expenditures, a supplemental final report shall be filed no later than January 7, after the general election, and shall be current through December 31 after the general election.

(6) Annual Reports. If contributions are received or expenditures made during a calendar year for which no reports are otherwise required by this Article, any and all such contributions and expenditures shall be reported by January 7 of the following year.

(b) Except as otherwise provided in this Article, each report shall be current within seven days prior to the date the report is due and shall list all contributions received and expenditures made which have not been previously reported.

(c) In addition to the primary reports required above, a final report shall be filed by the treasurer of each candidate and the treasurer of each committee supporting only candidates eliminated in primary elections. Such report of contributions and expenditures shall be filed with the board no later than 45 days after the primary election in which the candidate or candidates are eliminated."

Sec. 2. G.S. 163-278.16 is amended by deleting subsections (b), (c), (d) and (e), and by inserting in lieu thereof the following:

"(b) No advertisement of any kind may be made by a treasurer, candidate, political committee or individual in the case of the media unless it bears the legend or includes the statement

(Paid for or Sponsored) by_____(Name of candidate, political committee, individual)."

Sec. 3. G.S. 163-278.17 is amended as follows: Rewrite the first paragraph of subsection (a) to read:

"(a) Each media shall file a report with the board, no later than the 10th day after the first primary, and within 10 days after a second primary. Each media shall file a report with the board no later than the 10th day after the general election, and, additionally, shall file a supplemental report no later than January 7 after the general election which shall be current as of December 31 after the general election. Each report shall show all expenditures not shown on any prior report required to be filed by the media under this Article, and each report shall include the following information:".

Add new subdivisions to subsection (a) to read:

"(4) Except as otherwise provided, the media reports shall be current within seven days of the date the report is due. No report shall be necessary if no expenditures have been made in the period for which the report is due."

Amend subsection (b) by adding at the end thereof the following:

"A candidate may authorize advertisement paid for by a treasurer appointed by the candidate. All authorizations of expenditures signed by a candidate, treasurer or individual shall be deemed public records and copies of said authorizations shall be available for inspection during normal business hours at the office(s) of the media making the publication or broadcast nearest to the place(s) of publication or broadcast."

Sec. 4. G.S. 163-278.23 is amended by inserting on line 4 immediately before the word "he", a new sentence to read as follows:

"The executive secretary-director shall advise, or cause to be advised, no more than 15 days and at least five days before each report is due, each candidate or treasurer whose organizational report has been filed, of the specific date each report is due."

Sec. 5. G.S. 163-278.34 is rewritten to read as follows:

"§ 163-278.34. *Filings, penalty for late filings.*—(a) All reports, statements or other documents required by this Article to be filed with the board shall be filed either by manual delivery to or by certified or registered mail addressed to the board. Timely filing shall be complete if postmarked on the day the reports, statements or other documents are to be delivered to the board. If a report, statement or other document is not filed within the time required by this Article, then the individual, person, media, candidate, political committee or treasurer reponsible for filing shall pay to the State Board of Elections a late penalty of twenty dollars ($20.00) per day for each day the filing is late not to exceed five days. The board shall immediately notify, or cause to be notified, late filers, from which reports are apparently due, by registered or certified mail, return receipt requested, of the penalties under this section. If the penalty has not been paid to or the report has not been filed with the board within five days after receipt of the notification, then the board shall report the late filing or failure to file to the appropriate district attorney who shall indict and prosecute the offender as required in G.S. 163-278.27. No criminal penalty shall be imposed if the penalty required by this section is paid and the delinquent report is filed within five days after notification by the board.

(b) When a report, statement or other document, required by this Article is not apparently due (i.e., media, inactive candidate, individual, no organizational report filed, supplementary final report or annual report), the board shall notify, as set forth above, the person or persons responsible for filing if information is

presented indicating that the report, statement, or other document was in fact due. No criminal penalties shall be imposed if the late penalty is paid and the delinquent report is filed within five days after notification."

Sec. 6. G.S. 163-278.19 is amended by adding a new subsection at the end thereof to read:

"(d) Whenever a candidate or treasurer is an officer, director, stockholder, attorney, agent, or employee of any corporation, business entity, labor union, professional association or insurance company, and by virtue of his position therewith uses office space and communication facilities of the corporation, business entity, labor union, professional association or insurance company in the normal and usual scope of his employment, the fact that the candidate or treasurer receives telephone calls, mail, or visits in such office which relates to activities prohibited by this Article shall not be considered a violation under this section."

Sec. 7. G.S. 163-278 is rewritten to read:

"§ 163-278. *Duty of investigating and prosecuting violations of this Article.*— It shall be the duty of the State Board of Elections and the district attorneys to investigate any violations of this Article, and the board and district attorneys are authorized and empowered to subpoena and compel the attendance of any person before them for the purpose of making such investigation. The State Board of Elections and the district attorneys are authorized to call upon the Attorney General to furnish assistance by the State Bureau of Investigation in making the investigations of such violations. The State Board of Elections shall furnish the district attorney a copy of its investigation. The district attorney shall initiate prosecution and prosecute any violations of this Article. The provisions of G.S. 163-278.28 shall be applicable to violations of this Article."

Sec. 8. G.S. 163-259 through G.S. 163-268 are hereby repealed.

Sec. 9. G.S. 163-278.31 is amended by adding a new sentence at the end of the first paragraph as follows:

"The amount expended for media for the purpose of this subsection shall include time and space costs and costs of production."

Sec. 10. G.S. 163-278.33 is rewritten to read:

"§ 163-278.33. *Applicability of Article 22.*—G.S. 163-271 through G.S. 163-278 shall be applicable to the offices covered by this Article and G.S. 163-269 through G.S. 163-278 shall be applicable to all elective offices not covered by this Article."

Sec. 11. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of June, 1975.

S. B. 238

CHAPTER 566

AN ACT TO AMEND G.S. 105-275 TO EXCLUDE FROM THE TAX BASE SPECIALLY ADAPTED HOUSING OWNED AND USED AS A RESIDENCE BY A DISABLED VETERAN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-275 is hereby amended by adding after current subsection (20), a new subsection (21) to read as follows:

"(21) The first thirty-four thousand dollars ($34,000) in assessed value of housing together with the necessary land therefor, owned and used as a residence by a disabled veteran who receives benefits under Title 38, Section 801, United States Code Annotated. This exclusion shall be the total amount of the exclusion applicable to such property."

Sec. 2. This act shall become effective January 1, 1976.

In the General Assembly read three times and ratified, this the12th day of June, 1975.

S. B. 315

CHAPTER 567

AN ACT TO DESIGNATE CERTAIN MAJOR HIGHWAYS AS HISTORIC ALBEMARLE TOUR HIGHWAYS.

The General Assembly of North Carolina enacts:

Section 1. This act may be cited as the Historic Albemarle Tour Highway Act.

Sec. 2. Definitions. As used in this act, the words and expressions defined in this section shall be held to be as follows:

(a) Historic Albemarle Tour Highways shall include those roads designated as follows:

(1) N. C. 168 from the Virginia State line north of Moyock to its junction with N. C. 34 at Sligo.

(2) N. C. 34 from Sligo to its junction with U. S. 158 at Barco.

(3) U. S. 158 from Barco to its junction with U. S. 64-264 at Whalebone.

(4) U. S. 258 from the Virginia State line to its junction with N. C. 308 south at Rich Square.

(5) U. S. 17 from the Virginia State line through Elizabeth City, Hertford, Edenton, and Windsor to its junction with U. S. 264 at Washington.

(6) U. S. 13 from the Virginia State line to its junction with U. S. 64 at Williamston.

(7) U. S. 301 from the Virginia State line to its junction with N. C. 561 at Halifax.

(8) U. S. 258 from its junction with N. C. 308 south of Rich Square to its junction with N. C. 561 east of Spring Hill.

(9) N. C. 32 from the Virginia State line through Edenton to its junction with N. C. 99 five miles south of Plymouth.

(10) N. C. 37 from its junction with N. C. 32 to its junction with U. S. 64.

(11) N. C. 37 from its junction with N. C. 32 to its junction with U. S. 17.

(12) N. C. 32 from U. S. 64 south of Plymouth to its junction with N. C. 99.

(13) N. C. 99 from its junction with N. C. 32 south of Plymouth to its junction with U. S. 264 at Pantego.

(14) U. S. 158 from its junction with N. C. 34 at Barco west to its junction with U. S. 13.

(15) U. S. 158 from its junction with U. S. 13 at Winton west to its junction with U. S. 301 at Garysburg.

(16) N. C. 308 from its junction with U. S. 13 west of Windsor to its junction with U. S. 258 - N. C. 561 south of Rich Square.

(17) N. C. 561 from its junction with U. S. 258 to its junction with U. S. 301 south of Halifax.

(18) U. S. 64 from its junction with U. S. 158 at Whalebone west to its junction with U. S. 17-13 at Williamston.

(19) U. S. 264 from its junction with U. S. 158 at Whalebone to its junction with U. S. 17 at Washington.

(20) N. C. 92 from its junction with U. S. 264 five miles west of Leechville through Belhaven and Bath to its junction with U. S. 264 three miles east of the junction of U. S. 264 - N. C. 32.

(b) Department: North Carolina Department of Transportation and Highway Safety.

(c) Signs: To be similar to those of the Andrew Jackson or other approved highway signs in wording and size, the design of which will be prepared by Historic Albemarle Tour, Inc., subject to approval by the Board of Transportation. The Board of Transportation shall be responsible for the construction and maintenance of the signs authorized by this act. It should be noted that these signs are of a directional purpose and are not to be confused with the signs under the Historical Highway Marker program of the Departments of Cultural Resources and Transportation, Section 136-42.3 of the General Statutes.

(d) Points of Location: The placement of Historic Albemarle Tour signs shall be at or reasonably near the following locations:

(1) Along the main points of entry into the Historic Albemarle area.

(2) In the vicinity of each historic site or museum, as determined by the Department of Cultural Resources, the exact location to be determined by the site manager or director in cooperation with the Board of Transportation.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of June, 1975.

S. B. 351 CHAPTER 568

AN ACT TO AMEND THE NORTH CAROLINA OUTDOOR ADVERTISING CONTROL ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-128(2), as the same appears in Volume 3B of the General Statutes, is amended by adding at the end thereof the following:

"and are also so designated by interstate numbers. As to highways under construction so designated as interstate highways pursuant to the above procedures, the highway shall be a part of the interstate system for the purposes of this Article on the date the location of the highway has been approved finally by the appropriate federal authorities."

Sec. 2. G.S. 136-128(3), as the same appears in Volume 3B of the General Statutes, is amended by adding at the end of that sentence thereof the following:

", whether the same be permanent or portable installation."

Sec. 3. G.S. 136-128(4), as the same appears in Volume 3B of the General Statutes, is amended by adding at the end thereof the following:

"and are also so designated by N. C. or U. S. numbers. As to highways under construction so designated as primary highways pursuant to the above procedures, the highway shall be a part of the primary system for purposes of this Article on the date the location of the highway has been approved finally by the appropriate federal or State authorities."

Sec. 4. G.S. 136-128, as the same appears in Volume 3B of the General Statutes, is amended by adding at the end thereof the following additional provisions to read as follows:

"(6) 'Erect' means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish.

(7) 'Visible' means capable of being seen (whether or not legible) without visual aid by a person of normal visual acuity.

(8) 'State law' means a State constitutional provision or statute, or an ordinance; rule or regulation enacted or adopted by a State agency or political subdivision of a State pursuant to a State Constitution or statute.

(9) 'Illegal sign' means one which was erected and/or maintained in violation of State law.

(10) 'Unzoned area' shall mean an area where there is no zoning in effect.

(11) 'Nonconforming sign' shall mean a sign which was lawfully erected but which does not comply with the provisions of State law or State rules and regulations passed at a later date or which later fails to comply with State law or State rules or regulations due to changed conditions. Illegally erected or maintained signs are not nonconforming signs.

(12) 'Urban area' shall mean an area within the boundaries or limits of any incorporated municipality having a population of five thousand or more as determined by the latest available federal census."

Sec. 5. G.S. 136-129, as the same appears in Volume 3B of the General Statutes is amended by deleting the date "July 6, 1967," in the first paragraph thereof and, in its place, by adding the following words:

"the effective date of this Article as determined by G.S. 136-140".

Sec. 6. The Outdoor Advertising Control Act, Article 11, of Chapter 136, as the same appears in Volume 3B, is amended by adding a new section, G.S. 136-129.1, immediately following G.S. 136-129 and immediately preceding G.S. 136-130, such new section to read as follows:

"§ 136-129.1. *Limitations of outdoor advertising devices beyond 660 feet.*— No outdoor advertising shall be erected or maintained beyond 660 feet of the nearest edge of the right-of-way of the interstate or primary highways in this State outside of urban areas so as to be visible and intended to be read from the main traveled way except the following:

(1) Directional and other official signs and notices, which signs and notices shall include those authorized and permitted by Chapter 136 of the General Statutes, which include but are not limited to official signs and notices pertaining to natural wonders, scenic and historic attractions and signs erected and maintained by a public utility, electric or telephone membership

corporation, or municipality for the purpose of giving warning of or information as to the location of an underground cable, pipeline or other installation.

(2) Outdoor advertising which advertises the sale or lease of property upon which it is located.

(3) Outdoor advertising which advertises activities conducted on the property upon which it is located."

Sec. 7. G.S. 136-130, as the same appears in Volume 3B of the General Statutes, is amended by rewriting the same to read as follows:

"§ 136-130. *Regulation of advertising.*—The Board of Transportation is authorized to promulgate rules and regulations in the form of ordinances governing:

(1) the erection and maintenance of outdoor advertising permitted in G.S. 136-129,

(2) the erection and maintenance of outdoor advertising permitted in G.S. 136-129.1,

(3) the specific requirements and procedures for obtaining a permit for outdoor advertising as required in G.S. 136-133 and for the administrative procedures for appealing a decision at the agency level to refuse to grant or in revoking a permit previously issued, and

(4) the administrative procedures for appealing a decision at the agency level to declare any outdoor advertising illegal and a nuisance as pursuant to G.S. 136-134, as may be necessary to carry out the policy of the State declared in this Article. The Board of Transportation, in its discretion, may delegate to the Secretary of Transportation the authority to promulgate such rules and regulations on its behalf."

Sec. 8. G.S. 136-131, as the same appears in Volume 3B of the General Statutes, is hereby amended by adding in the first paragraph thereof after the words "Which are prohibited under the provisions of G.S. 136-129," the following words:

"or G.S. 136-129.1,".

Sec. 9. G.S. 136-131, as the same appears in Volume 3B of the General Statutes, is amended by deleting the "July 6, 1967," dates in the first paragraph thereof and, in their places, by adding the following words:

"the effective date of this Article as determined by G.S. 136-140".

Sec. 10. G.S. 136-131, as the same appears in Volume 3B of the General Statutes, is amended by deleting the words "erect and" in the sixth line of the third paragraph and in the sixth line in the fourth paragraph.

Sec. 11. G.S. 136-133, as the same appears in Volume 3B of the General Statutes, is amended by rewriting the same to read as follows:

"§ 136-133. *Permits required.*—No person shall erect or maintain any outdoor advertising within 660 feet of the nearest edge of the right-of-way of the interstate or primary highway system, except those allowed under G.S. 136-129, subdivisions (2) and (3) in this Article, or beyond 660 feet of the nearest edge of the right-of-way of the interstate or primary highway system, except those allowed under G.S. 136-129.1, subdivisions (2) and (3), without first obtaining a permit from the Board of Transportation or its agents pursuant to the procedures set out by rules and regulations promulgated by the Board of Transportation or the Secretary of Transportation. The permit shall be valid until revoked for nonconformance with this Article or rules and regulations promulgated by the Board of Transportation or the Secretary of Transportation

thereunder. Any person aggrieved by the decision of the Board of Transportation or its agents in refusing to grant or in revoking a permit may appeal the decision in accordance with the rules and regulations enacted by the Board of Transportation or Secretary of Transportation pursuant to this Article to the Secretary of Transportation who shall make the final decision on the agency appeal. The Board of Transportation shall have the authority to charge reasonable permit fees to defray the costs of administering the permit procedures under this Article."

Sec. 12. G.S. 136-134, as the same appears in Volume 3B of the General Statutes, is amended by rewriting the same to read as follows:

"§ 136-134. *Illegal advertising.*—Any outdoor advertising erected or maintained after the effective date of this Article as determined by G.S. 136-140, in violation of the provisions of this Article or rules and regulations promulgated by the Board of Transportation or Secretary of Transportation, or any outdoor advertising maintained without a permit regardless of the date of erection shall be illegal and shall constitute a nuisance. The Board of Transportation or its agents shall give 30 days' notice to the owner of the illegal outdoor advertising with the exception of the owner of unlawful portable outdoor advertising for which the Board of Transportation shall give five days' notice, if such owner is known or can by reasonable diligence be ascertained, to remove the outdoor advertising or to make it conform to the provisions of this Article or rules and regulations promulgated by the Board of Transportation or the Secretary of Transportation hereunder. The Board of Transportation or its agents shall have the right to remove the illegal outdoor advertising at the expense of the said owner if the said owner fails to act within 30 days after receipt of such notice or five days for owners of portable outdoor advertising. The Board of Transportation or its agents may enter upon private property for the purpose of removing the outdoor advertising prohibited by this Article or rules and regulations promulgated by the Board of Transportation or the Secretary of Transportation hereunder without civil or criminal liability. Any person aggrieved by the decision declaring the outdoor advertising structure illegal shall be granted the right to appeal the decision in accordance with the terms of the rules and regulations enacted by the Board of Transportation or the Secretary of Transportation pursuant to this Article to the Secretary of Transportation who shall make the final decision on the agency appeal."

Sec. 13. The Outdoor Advertising Control Act, Article 11 of Chapter 136, as the same appears in Volume 3B, is amended by adding a new section, G.S. 136-134.1, immediately following G.S. 136-134 and immediately preceding G.S. 136-135, such new section to read as follows:

"§ 136-134.1. *Judicial review.*—Any person who is aggrieved by a final decision of the Secretary of Transportation after exhausting all administrative remedies made available to him by rules and regulations enacted pursuant to this Article is entitled to judicial review of such decision under this Article. In order to obtain judicial review of the Secretary of Transportation's decision under this Article, the person seeking review must file a petition in the Superior Court of Wake County within 30 days after written copy of the decision of the Secretary of Transportation is served upon the person seeking review. Failure to file such a petition within the time stated shall operate as a waiver of the right of such person to review under this Chapter.

The petition shall state explicitly what exceptions are taken to the decision of the Secretary of Transportation and what relief petitioner seeks. Within 10 days after the petition is filed with the court, the person seeking the review shall serve copies of the petition by registered mail, return receipt requested, upon the Board of Transportation or the Secretary of Transportation. Within 30 days after receipt of the copy of the petition for review, or within such additional time as the court may allow, the Secretary of Transportation shall transmit to the reviewing court a certified copy of the written decision.

At any time before or during the review proceeding, the aggrieved party may apply to the reviewing court for an order staying the operation of the decision of the Secretary of Transportation pending the outcome of the review. The court may grant or deny the stay in its discretion upon such terms as it deems proper. The review of the decision of the Secretary of Transportation under this Article shall be conducted by the court without a jury and shall hear the matter de novo pursuant to the rules of evidence as applied in the general court of justice. The court, after hearing the matter may affirm, reverse or modify the decision if the decision is:

1. in violation of constitutional provisions; or
2. not made in accordance with this Article or rules or regulations promulgated by the Board of Transportation or Secretary of Transportation; or
3. affected by other error of law.

The party aggrieved shall have the burden of showing that the decision was violative of one of the above.

A party to the review proceedings, including the agency, may appeal to the appellate division from the final judgment of the Superior Court under the rules of procedure applicable in civil cases. The appealing party may apply to the Superior Court for a stay for its final determination or a stay of the administrative decision, whichever shall be appropriate, pending the outcome of the appeal to the appellate division."

Sec. 14. G.S. 136-135, as the same appears in Volume 3B of the General Statutes, is amended by rewriting the same to read as follows:

"§ 136-135. *Enforcement provisions.*—Any person, firm, corporation or association placing, erecting or maintaining outdoor advertising along the interstate system or primary system in violation of this Article or rules and regulations promulgated by the Board of Transportation or the Secretary of Transportation shall be guilty of a misdemeanor. In addition thereto, the Board of Transportation or the Secretary of Transportation may seek injunctive relief in the Superior Court of Wake County and require the outdoor advertising to conform to the provisions of this Article or rules and regulations promulgated pursuant hereto, or require the removal of the said illegal outdoor advertising."

Sec. 15. G.S. 136-140, as the same appears in Volume 3B of the General Statutes, is amended by adding thereto the words "United States" after the word "the" and before the words "Secretary of Transportation" on the seventh line of this section.

Sec. 16. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 12th day of June, 1975.

S. B. 447 **CHAPTER 569**

AN ACT TO PROVIDE FOR THE SETTING OF THE COMPENSATION AND ALLOWANCES OF LOCAL BOARDS OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. The first paragraph of G.S. 115-29 is rewritten to read as follows:

"The tax levying authority for a school administrative unit may, under the procedures of G.S. 153A-92, fix the compensation and expense allowances paid members of the board of education of that school administrative unit."

Sec. 2. The third paragraph of G.S. 115-29 is repealed.

Sec. 3. The compensation and expense allowances of members of boards of education shall continue at the same levels as paid on the effective date of this act until changed by or pursuant to local act or pursuant to this act.

Sec. 4. All laws and clauses of laws, including local acts, inconsistent herewith are hereby repealed.

Sec. 5. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 12th day of June, 1975.

S. B. 502 **CHAPTER 570**

AN ACT TO AMEND THE NORTH CAROLINA STRUCTURAL PEST CONTROL LAW TO PROVIDE FOR CERTIFIED APPLICATORS AND FOR RELATED PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 106-65.23 is hereby amended by deleting paragraph 6 and by rewriting the title and the first two paragraphs thereof as a single paragraph to read as follows:

"§ 106-65.23. *Structural pest control program of Department of Agriculture maintained; Structural Pest Control Committee maintained; appointment terms; quorum.*—The Commissioner of Agriculture shall maintain a structural pest control program within the Department of Agriculture. The commissioner is authorized to appoint personnel and request funds in addition to any fees authorized in this Article to implement the rules and regulations promulgated by the Structural Pest Control Committee consistent with the State Government Reorganization Act, G.S. 143A-6. A structural pest control employee of the Department of Agriculture shall act as secretary to the Structural Pest Control Committee herein created."

Sec. 2. The seventh paragraph of G.S. 106-65.23 is hereby rewritten to read as follows:

"Each member of the committee who is not an employee of the State shall receive as compensation for services per diem and necessary travel expenses and registration fees in accordance with the provisions as outlined for members of occupational licensing boards and currently provided for in G.S. 93B-5. Such per diem and necessary travel expenses and registration fees shall apply to the same effect that G.S. 93B-5 might hereafter be amended."

Sec. 3. G.S. 106-65.24(2) is hereby amended by deleting the first word on line 1 thereof, "Applicant", and by inserting in lieu thereof the words, "Applicant for a license".

Sec. 4. G.S. 106-65.24 is hereby amended by deleting subdivision (8) thereof, by renumbering subdivisions (3)-(7) as (4)-(8), and by inserting therein a new subdivision (3) to read as follows:

"(3) Applicant for a certified applicator's identification card means any person making application to use restricted use pesticides in any phase of structural pest control."

Sec. 5. G.S. 106-65.25(c) is renumbered as G.S. 106-65.25(d), and G.S. 106-65.25(b) is hereby rewritten in two subsections to read as follows:

"(b) This Article shall not apply to any person doing work on his own property or to any regular employee of any person, firm or corporation doing work on the property of such person, firm or corporation, under the direct supervision of the person who owns or is in charge of the property on which work is being done unless a restricted use pesticide is being used. Any person, including agents or agencies of the federal, State or local governments, using a restricted use pesticide, whether it be on his own property or on the property of another in, on, or around food handling establishments, human dwellings, institutions such as schools and hospitals, industrial establishments including warehouses and grain elevators and any other structures and adjacent areas, public or private, or for the protection of stored, processed, or manufactured products in any phase of structural pest control, must (1) qualify as a certified applicator for that phase of structural pest control, or (2) be under the direct supervision of a certified applicator possessing a valid identification card for that phase of structural pest control.

(c) Persons who (1) demonstrate to the public the proper use and techniques of application of pesticides or supervise such demonstration and/or (2) conduct field research with pesticides, and in doing so, use or supervise the use of restricted use pesticides must possess a valid certified applicator's identification card. Included in the first group are such persons as extension specialists and county agents, commercial representatives demonstrating pesticide products, and those individuals demonstrating methods used in public programs. The second group includes local, State, federal, commercial and other persons conducting field research on or utilizing restricted use pesticides.

The above standards do not apply to the following persons for purposes of these regulations:

(1) Persons conducting laboratory type research involving restricted use pesticides; and

(2) Doctors of medicine and doctors of veterinary medicine applying pesticides as drugs or medication during the course of their normal practice."

Sec. 6. G.S. 106-65.26 is hereby rewritten to read as follows:

"*Qualifications for certified applicator and licensee; applicants for certified applicator's identification card and license.*—(a) An applicant for a certified applicator's identification card or license must present satisfactory evidence to the committee concerning his qualifications for such card or license.

(b) Certified applicator. Each applicant for a certified applicator's identification card must demonstrate that he possesses a practical knowledge of the pest problems and pest control practices associated with the phase or phases of structural pest control for which he is seeking certification.

(c) Licensee. The basic qualifications for a license shall be:

(1) Qualify as a certified applicator for the phase or phases of structural pest control for which he is making application; and

(2) Two years as an employee or owner-operator in the field of structural pest control, control of wood-destroying organisms or fumigation, for which license is applied; or

(3) One or more years' training in specialized pest control, control of wood-destroying organisms or fumigation under university or college supervision may be substituted for practical experience. Each year of such training may be substituted for one year of practical experience; provided, however, if applicant has had less than 12 months' practical experience, the committee is authorized to determine whether said applicant has had sufficient experience to take the examination; or

(4) A degree from a recognized college or university with training in entomology, sanitary or public health engineering, or related subjects; provided, however, if applicant has had less than 12 months' practical experience, the committee is authorized to determine whether said applicant has had sufficient experience to take the examination.

(d) All applicants for license must have practical experience and knowledge of practical and scientific facts underlying the practice of structural pest control, control of wood-destroying organisms or fumigation. No person who has within five years of his application been convicted of or has entered a plea of guilty or a plea of nolo contendere to a crime involving moral turpitude, or who has forfeited bond to a charge involving moral turpitude, shall be entitled to take an examination or the issuance of a license under the provisions of this Article."

Sec. 7. G.S. 106-65.27 is hereby rewritten to read as follows:

"§ 106-65.27. *Examinations of applicants; fee; license not transferable.*—(a) Certified applicator. All applicants for a certified applicator's identification card shall demonstrate practical knowledge of the principles and practices of pest control and safe use of pesticides. Competency shall be determined on the basis of written examinations to be provided and administered by the committee and, as appropriate, performance testing. Testing shall be based upon examples of problems and situations appropriate to the particular phase or phases of structural pest control for which application is made and include where relevant the following areas of competency:

(1) Label and labeling comprehension.

(2) Safety factors associated with pesticides - toxicity, precautions, first aid, proper handling, etc.

(3) Influence of and on the environment.

(4) Pests - identification, biology, and habits.

(5) Pesticides - types, formulations, compatibility, hazards, etc.

(6) Equipment - types and uses.

(7) Application techniques.

(8) Laws and regulations.

An applicant for a certified applicator's identification card shall submit with his application for examination an examination fee of ten dollars ($10.00) for each of the phases of structural pest control in which he chooses to be examined. An examination for one or more phases of structural pest control may be taken at the same time. If an applicant fails to pass an examination for one or more phases of structural pest control, he shall be entitled to take one additional

examination, at a regularly scheduled examination, without the payment of another examination fee. Frequency of such examinations shall be in the discretion of the committee, consideration being given to the number of applications received, provided that a minimum of two examinations shall be given annually. The examination will cover the phase or phases of structural pest control for which application is being made. The ten dollar ($10.00) fee shall not apply to agents or agencies of the federal, State, or local governments.

(b) License. Each applicant for an original license must demonstrate upon written examination, to be provided and administered by the committee, his competency as a structural pest control operator for the phase or phases in which he is applying for a license. Frequency of such examinations shall be in the discretion of the committee, consideration being given to the number of applications received, provided that a minimum of two examinations shall be given annually. The examination will cover the phase or phases of structural pest control for which application is being made.

An applicant shall submit with his application for examination an examination fee of twenty-five dollars ($25.00) for each of the phases of structural pest control in which he chooses to be examined. An examination for one or more phases of structural pest control may be taken at the same time. If an applicant fails to pass an examination for one or more phases of structural pest control, he shall be entitled to take one additional examination, at a regularly scheduled examination, without the payment of another examination fee. Agents or agencies of the federal, State or local governments are not exempt from this fee.

(c) A license shall not be transferable. When there is a transfer of ownership, management of operation of a business of a license hereunder, the new owner, manager or operator (as the case may be) whether it be an individual, firm, partnership, corporation, or other entity, shall have 90 days from such sale or transfer, or until the next meeting of the committee following the expiration of said 90-day period, to have a qualified licensee to operate said business. During this 90-day period the use of any restricted use pesticide by any person representing said business agent or agency shall be by or under the direct supervision of a person possessing a valid certified applicator's identification card.

(d) The Committee shall by regulation provide for:

(1) Establishing categories of certified applicators, along with such appropriate subcategories as are necessary, to meet the requirements of this act;

(2) All licensees licensed prior to October 21, 1976, to become qualified as certified applicators; and

(3) Requalifying certified applicators thereafter as required by the federal government at intervals no more frequent than that specified by federal law and federal regulations."

Sec. 8. Line 1 of G.S. 106-65.28(a) and line 1 of G.S. 106-65.28(a)(4) are each amended by adding immediately after the word "license" the words "or certified applicator's identification card".

Sec. 9. G.S. 106-65.28(a) is further amended by adding the words "or certified applicator" in line 1 of paragraph (2) thereof after the word "licensee", and in line 1 of paragraph (2) thereof deleting the word "Director" and inserting

therein the word "Commissioner", and in line 1 of paragraph (3) thereof after the word "holder" adding the words "certified applicator".

Sec. 10. G.S. 106-65.28(a) is further amended by rewriting paragraph (6) thereof to read as follows:

"(6) Aiding or abetting a licensed or unlicensed person or a certified applicator or a noncertified person to evade the provisions of this Article, combining or conspiring with such a licensed or unlicensed person or a certified applicator or noncertified person to evade the provisions of this Article, or allowing one's license or certified applicator's identification card to be used by an unlicensed or noncertified person."

Sec. 11. G.S. 106-65.28 is further amended by adding thereto at the end thereof the following new paragraph (10):

"Payment, or the offer to pay, by any licensee to any party to a real estate transaction of any commission, bonus, rebate, or other thing of value as compensation or inducement for the referral to such licensee of structural pest control work arising out of such transaction."

Sec. 12. G.S. 106-65.28(b) is hereby amended by adding words "or certified applicator's identification card" in lines 1, 3, 8, 9, 12, and 15, in each case immediately after the word "license" and deleting the word "Director" in line 5 and inserting the word "Commissioner" therein.

Sec. 13. G.S. 106-65.28(b) is further amended by inserting in line 7 thereof after the word "license" the words "or certified applicator whose identification card"; by inserting in line 13 after the word "licensee" the words "or a certified applicator's identification card by a certified applicator"; and by inserting in line 15 after the word "licensee" and before the comma the words "or certified applicator".

Sec. 14. G.S. 106-65.29 is hereby amended by inserting in line 6 thereof after the word "licensees" and before the period the words "and certified applicators".

Sec. 15. G.S. 106-65.30 is hereby rewritten to read as follows:

"*Inspectors; inspections and reports of violations; designation of resident agent.*—For the enforcement of the provisions of this Article the commissioner is authorized to appoint one or more qualified inspectors and such other employees as are necessary in order to carry out and enforce the provisions of this Article. The inspectors shall be known as 'Structural Pest Control Inspectors'. The commissioner shall enforce compliance with the provisions of this Article by making or causing to be made periodical and unannounced inspections of work done by licensees and certified applicators under this Article who engage in or supervise any one or more phases of structural pest control as defined in G.S. 106-65.25. The commissioner shall cause the prompt and diligent investigation of all reports of violations of the provisions of this Article and all rules and regulations adopted pursuant to the provisions hereof; provided, however, no inspection shall be made by a representative of the commissioner of any property without first securing the permission of the owner or occupant thereof.

Prior to the issuance or renewal of a license or certified applicator's identification card, every nonresident owner of a business performing any phase of structural pest control work shall designate in writing to the commissioner or his authorized agent a resident agent upon whom service of notice or process may be made to enforce the provisions of this Article and rules and regulations

adopted pursuant to the provisions hereof or any civil or criminal liabilities arising hereunder."

Sec. 16. G.S. 106-65.31 is hereby rewritten to read as follows:

"*Annual certified applicator card and license fee; registration of servicemen, salesmen, solicitors, and estimators; identification cards.*—(a) Certified applicator's card. The fee for issuance or renewal of a certified applicator's identification card for any one phase or more of structural pest control, as the same is defined in G.S. 106-65.25, shall be thirty dollars ($30.00). Certified applicator's identification cards shall expire on June 30 of each year and shall be renewed annually. All certified applicators who fail or neglect to renew their certified applicator's identification card issued under the provisions of this Article on or before June 30 of each year in which they hold a valid certified applicator's identification card but make application before October 1 of that year shall be renewed without the applicant having to be reexamined unless under the provisions of this Article the applicant is scheduled for periodic reexamination (G.S. 106-65.27(e)(2)). All applicants submitting applications for the renewal of their certified applicator's identification cards after June 30 and before October 1 of that year shall (1) not use or supervise the use of any restricted use pesticides after June 30 of that year until he has been issued a valid certified applicator's identification card and (2) pay, in addition to the annual certification fee, the sum of five dollars ($5.00) for each phase of structural pest control in which he is applying for certification before his certified applicator's identification card is renewed.

Any certified applicator whose identification card is lost or destroyed may secure a duplicate identification card for a fee of five dollars ($5.00).

The fees for a certified applicator's identification shall not apply to agents or agencies of the federal, State, or local governments.

(b) License. The fee for the issuance of a license for any phase of structural pest control, as the same is defined in G.S. 106-65.25, shall be one hundred dollars ($100.00); provided, that when or any time after the fee for a license for any one phase is paid, the holder of said license may secure a license for either or both of the other two phases for an additional fee of fifty dollars ($50.00) per license phase. Licenses shall expire on June 30 of each year and shall be renewed annually. Any licensee who fails or neglects to renew any license issued under the provisions of this Article on or before August 1 of each year shall pay, in addition to the annual fee, the sum of ten dollars ($10.00) for each phase before his license is renewed.

Any licensee whose license is lost or destroyed may secure a duplicate license for a fee of five dollars ($5.00).

A license holder shall register with the North Carolina Department of Agriculture within 75 days of employment the names of all certified applicators, estimators, salesmen, servicemen and solicitors (not common laborers) and shall pay a registration fee of twenty dollars ($20.00) for each name registered, which fee shall accompany the registration. This registration fee shall not apply to a certified applicator. All registrations expire when a license expires. Each employee of a licensee for whom registration is made and registration fee paid shall be issued an identification card which shall be carried on the person of the employee at all times when performing any phase of structural pest control work. An identification card shall be renewed annually by payment of a renewal fee of twenty dollars ($20.00). An identification card shall be displayed upon

demand to the commissioner, or his authorized representative, or to the person for whom any phase of structural pest control work is being performed. When an identification card is lost or destroyed, the licensee shall secure a duplicate identification card for which he shall pay a fee of one dollar ($1.00). This one dollar ($1.00) fee shall not apply to a certified applicator's identification card. The licensee shall be responsible for registering and securing identification cards for all employees who are estimators, salesmen, servicemen, and solicitors.

It shall be unlawful for an estimator, serviceman, salesman or solicitor to engage in the performance of any work covered by this Article without having first secured and having in his possession an identification card. It shall be unlawful for a licensee to direct or procure any salesman, serviceman or estimator to engage in the performance of any work covered by this Article without having first applied for an identification card for such employee or agent; provided, however, that the licensee shall have 75 days after employing a serviceman, salesman or estimator within which to apply for an identification card.

All registrations and applications for licenses and identification cards shall be filed with the North Carolina Department of Agriculture.

No person shall act as an estimator, serviceman, salesman, solicitor, or agent for any licensee under this Article nor shall any such person be issued an identification card by the Structural Pest Control Committee who has within three years of the date of application for an identification card been convicted of, pled guilty or nolo contendere, or forfeited bond in any court, State or federal, to a crime involving moral turpitude or to any violation of the North Carolina Structural Pest Control Act or to any regulation promulgated by the Structural Pest Control Committee. This provision shall not apply to any person whose citizenship has been restored as provided by law.

No person or business shall advertise as a contractor for structural pest control services nor actually contract for such services unless that person or business advertises or contracts in the name of the company shown on the license certificate of the licensee or identification card of the certified applicator who will perform the services."

Sec. 17. G.S. 106-65.32 is hereby amended by inserting in lines 12 and 24 thereof, in each case, after the word "license" the words "or certified applicator's identification card"; and said section is further amended by inserting in line 23 thereof after the word "licensee" the words "or certified applicator".

Sec. 18. Chapter 106, Article 4C, is hereby amended by adding thereto at the end thereof a new section, G.S. 106-65.37, to read as follows:

"§ 106-65.37. *Financial responsibility.*—(a) The committee may require by regulation from a licensee or certified applicator or an applicant for a license or certified applicator's identification card under this Article evidence of his financial ability to properly indemnify persons suffering from the use or application of pesticides in the form of liability insurance or other means acceptable to the committee. The amount of this insurance or financial ability shall be determined by the committee.

(b) Any regulation adopted by the committee pursuant to G.S. 106-65.29 to implement this section may provide for such conditions, limitations and requirements concerning the financial responsibility required by this section as the committee deems necessary including but not limited to notice or reduction

or cancellation of coverage and deductible provisions. Such regulations may classify financial responsiblity requirements according to the separate license classifications and subclassifications as may be prescribed by the committee."

Sec. 19. This act shall become effective on July 1, 1976.

In the General Assembly read three times and ratified, this the 12th day of June, 1975.

S. B. 567 CHAPTER 571

AN ACT TO AMEND ARTICLE 13 OF CHAPTER 90 OF THE GENERAL STATUTES TO REVISE THE LAWS RELATING TO FUNERAL DIRECTORS AND EMBALMERS.

The General Assembly of North Carolina enacts:

Section 1. Article 13 of Chapter 90 of the General Statutes is hereby amended and rewritten to read as follows:

"Article 13.

"Practice of Funeral Service.

"§ 90-203. *State Board; members; election; qualifications; term; vacancies.*— (a) The practice of funeral service in the State of North Carolina is hereby declared to affect the public health, safety and welfare and to be subject to regulation and control in the public interest. It is further declared to be a matter of public interest and concern that the funeral service profession merits and receives the confidence of the public and that only qualified persons be permitted to practice funeral service in the State of North Carolina. This Article shall be liberally construed to carry out these objects and purposes.

(b) The North Carolina Board of Mortuary Science is hereby created as a continuation of the North Carolina Board of Embalmers and Funeral Directors, which was heretofore created by Chapter 338, Public Laws 1901; by Chapter 174, Public Laws 1931; by Chapter 951, Public Laws 1949; by Chapter 1240, Public Laws 1957; and continued by Chapter 630, Public Laws 1965, and the Board of Mortuary Science is hereby created as the agency of the State for regulation of the practice of funeral service in this State. Said Board of Mortuary Science shall consist of five funeral service licensees licensed to practice in North Carolina and two funeral directors who are licensed to practice funeral directing in North Carolina, or two funeral service licensees licensed to practice in North Carolina, and who possess other qualifications hereinafter specified and who shall have been elected in an election held as hereinafter provided in which every person licensed to practice embalming, funeral directing or funeral service in North Carolina shall be entitled to vote. Each of said five funeral service licensees shall be elected for a term of five years and until his successor shall be elected and shall qualify and each of said two funeral directors or two funeral service licensees shall be elected for a term of two years and until his successor shall be elected and shall qualify. Each year there shall be elected one funeral service licensee for a term of five years and one funeral director or funeral service licensee for a term of two years. Any vacancy occurring on said board shall be filled for the period of the unexpired term by a majority vote of the remaining members of the board. No funeral service licensee shall be nominated for membership on said board or shall be elected to membership on said board, unless, at the time of such nomination, and at the time of such election, he is licensed to practice funeral service in North Carolina

and actually engaged in the practice of funeral service in North Carolina and unless he has had a license to practice funeral service or embalming in North Carolina for not less than five consecutive years prior thereto. No funeral director shall be nominated for membership on said board or shall be elected to membership on said board unless, at the time of such nomination and at the time of such election, he is licensed to practice funeral directing in North Carolina and actually engaged in the practice of funeral directing in North Carolina and unless he has had such license to practice funeral directing in North Carolina for not less than five consecutive years prior thereto. In addition to the seven members above provided for, the chairman of the Commission for Health Services shall serve ex officio as a member of said board and one public member of the board appointed by the Governor who shall be a voting member of the board.

The first member appointed by the Governor shall serve until June 30, 1977, or until his successor is appointed. Thereafter, the Governor shall appoint such member of the board to serve for a four-year term, beginning on July 1, 1977. The member of the board appointed by the Governor shall not be a person licensed under this act and such person shall not be employed by a person licensed under this act.

(c) Nominations and elections of members of the North Carolina State Board of Mortuary Science shall be as follows:

(1) An election shall be held each year to elect two persons for membership on the Board of Mortuary Science, each to take office on the first day of January following the election, one funeral service licensee to hold office for a term of five years and until his successor has been elected and shall qualify, and one funeral director or funeral service licensee to hold office for a term of two years and until his successor has been elected and shall qualify; provided that if in any year the election of the members of such board for that year shall not have been completed by January 1, of that year, then the said members elected that year shall take office immediately after the completion of the election and the five-year member shall hold office until the first of January of the fifth year thereafter and until his successor is elected and qualified and the two-year member shall hold office until the first of January of the second year thereafter and until his successor is elected and qualified.

(2) Every embalmer, funeral director and funeral service licensee with a current North Carolina license shall be eligible to vote in all elections. The holding of such a license to practice in North Carolina shall constitute registration to vote in such elections. The list of licensed embalmers, funeral directors and funeral service licensees shall constitute the registration list for elections.

(3) All elections shall be conducted by the State Board of Mortuary Science which is hereby constituted a Board of Mortuary Science Elections. If a member of the State Board of Mortuary Science whose position is to be filled at any election is nominated to succeed himself, and does not withdraw his name, he shall be disqualified to serve as a member of the Board of Mortuary Science Elections for that election and the remaining members of the Board of Mortuary Science Elections shall proceed and function without his participation.

(4) Nomination of candidates for election shall be made to the Board of

Mortuary Science Elections by a written petition signed by not less than 20 embalmers, funeral directors or funeral service licensees licensed to practice in North Carolina, and filed with said Board of Mortuary Science Elections subsequent to the fifteenth day of May of the year in which the election is to be held and not later than midnight of the fifteenth day of August of such year, or not later than such earlier date (not before July 1) as may be set by the Board of Mortuary Science Elections: Provided, that not less than 10 days' notice of such earlier date shall be given to all embalmers, funeral directors and funeral service licensees qualified to sign a petition of nomination.

(5) Any person who is nominated as provided in subdivision (4) above may withdraw his name by written notice delivered to the Board of Mortuary Science Elections or its designated secretary at any time prior to the closing of the polls in any election.

(5-1/2) No person shall be eligible for nomination or election to the Board of Mortuary Science who at the time of nomination or election is serving as an elected member of the Board pursuant to the provisions of Section 90-203(c).

(6) Following the close of nominations, there shall be prepared, under and in accordance with such rules and regulations as the Board of Mortuary Science Elections shall prescribe, ballots containing, in alphabetical order, the names of all nominees; and each ballot shall have such method of identification, and such instructions and requirements printed thereon, as shall be prescribed by the Board of Mortuary Science Elections at such time as may be fixed by the Board of Mortuary Science Elections a ballot and a return official envelope addressed to said board shall be mailed to each embalmer, funeral director and funeral service licensee licensed to practice in North Carolina, together with a notice by said board designating the latest day and hour for return mailing and containing such other items as such board may see fit to include. The said envelope shall bear a serial number and shall have printed on the left portion of its face the following:

"Serial No. of Envelope_____

Signature of Voter_____

Address of Voter_____

_____

(Note: The enclosed ballot is not valid unless the signature of the voter is on this envelope)."

The Board of Mortuary Science Elections may cause to be printed or stamped or written on said envelope such additional notice as it may see fit to give. No ballot shall be valid or shall be counted in an election unless within the time hereinafter provided it has been delivered to said board by hand or by mail and shall be sealed. The said board by rule may make provision for replacement of lost or destroyed envelopes or ballots upon making proper provisions to safeguard against abuse.

(7) The date and hour fixed by the Board of Mortuary Science Elections as the latest time for delivery by hand or mailing of said return ballots shall be not earlier than the tenth day following the mailing of the envelopes and ballots to the voters.

(8) The said ballots shall be canvassed by the Board of Mortuary Science

Elections beginning at noon on a day and at a place set by said board and announced by it in the notice accompanying the sending out of the ballots and envelopes, said date to be not later than four days after the date fixed by the board for the closing of the balloting. The canvassing shall be made publicly and any licensed embalmer, funeral director or funeral service licensee may be present. The counting of ballots shall be conducted as follows: The envelopes shall be displayed to the persons present and an opportunity shall be given to any person present to challenge the qualification of the voter whose signature appears on the envelope or to challenge the validity of the envelope. Any envelope (with enclosed ballot) challenged shall be set aside, and the challenge shall be heard later or at that time by said board. After the envelopes have been so exhibited, those not challenged shall be opened and the ballots extracted therefrom, insofar as practicable without showing the marking on the ballots, and there shall be a final and complete separation of each envelope and its enclosed ballot. Thereafter each ballot shall be presented for counting, shall be displayed and, if not challenged, shall be counted. No ballot shall be valid if it is marked for more nominees than there are positions to be filled in that election: Provided, that no ballot shall be rejected for any technical error unless it is impossible to determine the voter's choices or choice from the ballot. The counting of ballots shall be continued until completed. During the counting, challenge may be made to any ballot on the grounds only of defects appearing on the face of the ballot. The said board may decide the challenge immediately when it is made or it may put aside the ballot and determine the challenge upon the conclusion of the counting of the ballots.

(9) If one of the nominees shall receive a majority of the votes cast, he shall be declared elected. If no candidate shall receive a majority of the votes cast, the said board shall order a second election to determine a contest between the two candidates receiving the highest number of votes. In any election if there is a tie between candidates, the tie shall be resolved by the vote of the State Board of Mortuary Science, provided that if a member of that board is one of the candidates in the tie, he may not participate in such vote.

(10) In the event there shall be required a second election, there shall be followed the same procedure as outlined in the paragraphs above subject to the same limitations and requirements.

(11) In the case of the death or withdrawal of a candidate prior to the closing of the polls in any election, he shall be eliminated from the contest and any votes cast for him shall be disregarded. If, at any time after the closing of the period for nominations because of lack of plural or proper nominations or death, or withdrawal, or disqualification or any other reason, there shall be (i) only one candidate for a position, he shall be declared elected by the Board of Mortuary Science Elections, or (ii) no candidate for a position, the position shall be filled by the State Board of Mortuary Science. In the event of the death or withdrawal of a candidate after election but before taking office, the position to which he was elected shall be filled by the State Board of Mortuary Science. In the event of the death or resignation of a member of the State Board of

Mortuary Science, after taking office, his position shall be filled for the unexpired term by the State Board of Mortuary Science.

(12) An official list of all licensed embalmers, funeral directors and funeral service licensees shall be kept at an office of the Board of Mortuary Science Elections and shall be open to the inspection of any person at all times. Copies may be made by any licensed embalmer, funeral director or funeral service licensee. As soon as the voting in any election begins a list of the licensed embalmers, funeral directors, and funeral service licensees shall be posted in such office of said board and indication by mark or otherwise shall be made on that list to show whether a ballot-enclosing envelope has been returned.

(13) All envelopes enclosing ballots and all ballots shall be preserved and held separately by the Board of Mortuary Science Elections for a period of six months following the close of an election.

(14) From any decision of the Board of Mortuary Science Elections relative to the conduct of such elections, appeal may be taken to the courts in the manner otherwise provided by Article 33 of Chapter 143 of the General Statutes of North Carolina.

(15) The Board of Mortuary Science Elections is authorized to make rules and regulations relative to the conduct of these elections, provided same are not in conflict with the provisions of this section and provided that notice shall be given to all licensed embalmers, funeral directors, and funeral service licensees.

(d) The Board of Mortuary Science Elections is authorized to appoint such secretary or secretaries and/or assistant secretary or assistant secretaries to perform such functions in connection with such nominations and elections as said board shall determine, provided that any protestant or contestant shall have the right to a hearing by said board in connection with any challenge of a voter, or an envelope, or a ballot or the counting of an election. Said board is authorized to designate an office or offices for the keeping of lists of registered embalmers, funeral directors and funeral service licensees, for the issuance and receipt of envelopes and ballots.

"§ 90-204. *Oath of office.*—The members of said board, before entering upon their duties, shall take and subscribe to the oath of office prescribed for other State officers, which said oath shall be administered by a person qualified to administer such oath and shall be filed in the office of the Secretary of State.

"§ 90-205. *Definitions.*—(a) 'Board' means the North Carolina State Board of Mortuary Science.

(b) 'Practice of Funeral Service' means engaging in the care or disposition of dead human bodies or in the practice of disinfecting and preparing by embalming or otherwise dead human bodies for the funeral service, transportation, burial or cremation, or in the practice of funeral directing or embalming as presently known, whether under these titles or designations or otherwise. It also means engaging in making arrangements for funeral service, selling funeral supplies to the public or making financial arrangements for the rendering of such services or the sale of such supplies.

(c) 'Funeral Service Licensee' means a person who is duly licensed and engaged in the 'practice of funeral service' as above defined.

(d) 'Funeral Establishment' means every place or premise devoted to or used in the care and preparation for the funeral and final disposition of dead human

bodies and maintained for the convenience of the public in connection with dead human bodies or as the place for carrying on the profession of funeral service.

(e) 'Funeral Directing' means engaging in the practice of funeral service except embalming as hereinafter defined.

(f) 'Funeral Director' means any person engaged in the practice of 'funeral directing' as defined above.

(g) 'Embalming' means the preservation and disinfection or attempted preservation and disinfection of the dead human bodies by application of chemicals externally or internally or both and the practice of restorative art including the restoration or attempted restoration of the appearance of the dead human body.

(h) 'Embalmer' means any person engaged in the practice of 'embalming' as defined above.

(i) 'Advertisement' means the publication, dissemination, circulation or placing before the public, or causing directly or indirectly to be made, published, disseminated or placed before the public any announcement or statement in a newspaper, magazine, or other publication, or in the form of a book, notice, circular, pamphlet, letter, handbill, poster, bill, sign, placard, card, label or tag, or over any radio or television station.

(j) 'Resident Trainee' means a person who is engaged in preparing to become licensed for the practice of funeral directing, embalming or funeral service under the personal supervision and instruction of a person duly licensed for the practice of funeral directing, embalming or funeral service in the State of North Carolina under the provisions of this Chapter, and who is duly registered as such with the board.

(k) 'Burial' includes interment in any form, cremation and the transportation of the dead human body as necessary therefor.

(l) 'Funeral Service Profession' means the aggregate of all funeral service licensees and their duties and responsibilities in connection with the funeral as an organized, purposeful, time-limited, flexible, group-centered response to death.

"§ 90-206. *State institutions.*—Nothing in this Article shall apply to or in any manner interfere with the duties of any officer of local or State institutions, nor shall be construed to apply to the burial of dead bodies of paupers or of inmates of State institutions when buried at the sole expense of the State.

"§ 90-207. *Required meetings.*—The board shall hold at least two meetings in each year at which examinations shall be given to qualified applicants for licenses. In addition, the board may meet as often as the proper and efficient discharge of its duties shall require. Four members shall constitute a quorum.

"§ 90-208. *Powers and duties of the board.*—(a) The board is authorized to adopt and promulgate such rules and regulations for transaction of its business and for the carrying out and enforcement of the provisions of this Article as may be necessary and as are consistent with the laws of this State and of the United States.

(b) The board shall elect from its members a president, a vice-president and a secretary, no two offices to be held by the same person. The president and vice-president and secretary shall serve for one year and until their successors shall be elected and qualify. The board shall have authority to engage adequate staff as deemed necessary to perform its duties.

(c) The members of the board shall serve without compensation provided that such members shall be reimbursed for their necessary traveling expenses and the necessary expenses incident to their attendance upon the business of the board, and in addition thereto they shall receive per diem and expense reimbursement as provided in G.S. 93B-5 for every day actually spent by such member upon the business of the board. All expenses, salaries and per diem provided for in this Article shall be paid from fees received under the provisions of this Article and shall in no manner be an expense to the State.

(d) Every person licensed by the board and every resident trainee shall furnish all information required by the board reasonably relevant to the practice of the profession or business for which he is a licensee or resident trainee, and every funeral service establishment shall be subject to inspection by the board at all reasonable times and shall furnish all information required by the board reasonably relevant to the business therein conducted. Every licensee, resident trainee and funeral service establishment shall provide the board with his or its current post office address which shall be placed on the appropriate register and all notices required by law or by any rule or regulation of the board to be mailed to any licensee, resident trainee or funeral service establishment shall be validly given when mailed to the address so provided.

The board is empowered to hold hearings in accordance with the provisions of this Article and of Chapter 150, to subpoena witnesses and to administer oaths to or receive the affirmation of witnesses before the board.

(e) The board is empowered to regulate and inspect, according to law, funeral service establishments, their operation and the licenses under which they are operated, and to enforce as provided by law the rules, regulations and requirements of the Division of Health Services and of the city, town or county wherein any such funeral service establishment is maintained and operated.

(f) The board may establish, supervise, regulate and control programs for the resident trainee. It may approve schools of mortuary science or funeral service, graduation from which is required by this Article as a qualification for the granting of any license and may establish essential requirements and standards for such approval of mortuary science or funeral service schools.

(g) Schools for teaching mortuary science which are approved by the board shall have extended to them the same privileges as to the use of bodies for dissecting while teaching as those granted in this State to medical colleges, but such bodies shall be obtained through the same agencies which provide bodies for medical colleges.

(h) The board shall adopt a common seal.

(i) The board may perform such other acts and exercise such other powers and duties as may be provided elsewhere in this Article or otherwise by law and as may be necessary to carry out the powers herein conferred.

"§ 90-209. *Inspector.*—There may be appointed by the board one or more agents whose title shall be 'Inspector of the Board of Mortuary Science of the State of North Carolina', and no person shall be eligible for appointment to such office unless he shall, at said time, be licensed under this Article as a funeral service licensee in the State of North Carolina and unless prior to the time of such appointment he has had not less than five consecutive years' experience as such a licensee or as a licensed embalmer and funeral director. All inspectors shall hold office during the pleasure of the board which shall determine what their duties shall be, and such inspectors are authorized to enter the office,

premises, establishment or place of business of any funeral service licensee, funeral director or embalmer in the State of North Carolina or any office, premises, establishment or place where the practice of funeral service is carried on, or where such practice is advertised as being carried on or where a funeral is being conducted, for the purpose of inspecting said office, premises, or establishment or for the purpose of inspecting the license or registration of any said licensee and resident trainee operating therein.

Inspectors are further authorized to serve any papers or subpoenas issued by the board or any officer or member thereof under authority of this Article, and also to perform any other duty or duties prescribed or ordered by the board.

"§ 90-210. *Licensing.*—(a) Qualifications, examinations, resident traineeship and licensure.

(1) To be licensed for the practice of funeral directing under this Article a person must be at least 18 years of age, a resident of this State and a citizen of the United States, of good moral character, and must have completed a minimum of 32 semester hours (or its equivalent) of academic instruction in a college or university accredited by the State of North Carolina or be a graduate of a mortuary science college approved by the State Board of Mortuary Science. An applicant must complete 12 months of resident traineeship as a funeral director before or after the college requirement as stated and pass the required examination provided for in this Article.

Each such applicant for the license shall be examined orally or in writing on the following subjects:

a. Basic health sciences including bacteriology, hygiene, and public health.

b. Funeral service administration including accounting, funeral law, psychology, funeral principles, directing and management.

c. Laws of North Carolina and rules and regulations of the Board of Mortuary Science and other agencies, dealing with the care, transportation and disposition of dead human bodies.

(2) To be licensed for the practice of embalming under this Article a person must be at least 18 years of age, a resident of this State and a citizen of the United States, of good moral character and be a graduate of a mortuary science college approved by the State Board of Mortuary Science. An applicant must complete 12 months of resident traineeship as an embalmer before or after the college requirement as stated and pass the required examination provided for in this Article.

Each such applicant for the license shall be examined orally or in writing on the following subjects:

a. Basic health sciences including anatomy, chemistry, bacteriology, pathology, hygiene and public health.

b. Funeral service arts and sciences including embalming and restorative art.

c. Laws of North Carolina and rules and regulations of the Board of Mortuary Science and other agencies, dealing with the care, transportation and disposition of dead human bodies.

(3) To be licensed for the practice of funeral service under this Article a person must be at least 18 years of age, a resident of this State and a citizen of the United States, of good moral character and be a graduate

of a mortuary science college approved by the State Board of Mortuary Science. An applicant must complete 12 months of resident traineeship as a funeral service licensee before or after the college requirement as stated and pass the required examination provided for in this Article.

Each such applicant for the license shall be examined orally or in writing on the following subjects:

a. Basic health sciences including anatomy, chemistry, bacteriology, pathology, hygiene and public health.

b. Funeral service arts and sciences including embalming and restorative art.

c. Funeral service administration including accounting, funeral law, psychology, funeral principles, directing and management.

d. Laws of North Carolina and rules and regulations of the Board of Mortuary Science and other agencies, dealing with the care, transportation and disposition of dead human bodies.

(4) A person desiring to become a resident trainee shall make application on a form provided by the board. The application shall state that the applicant is not less than 18 years of age, of good moral character, and is the graduate of a high school or the equivalent thereof. The application must be sustained by oath of the applicant and be accompanied by a fee not to exceed thirty-five dollars ($35.00). When the board is satisfied as to the qualifications of an applicant it shall instruct the secretary to issue a certificate of resident traineeship. When a resident trainee desires to get in-service training to become a funeral director with a person licensed for the practice of funeral directing or when a resident trainee desires to become an embalmer and desires in-service training with a person licensed for the practice of embalming or when a resident trainee desires to become a funeral service licensee and desires in-service training with a funeral service licensee, a request shall be submitted to the board. If such permission is granted and at any time thereafter such resident trainee leaves the proctorship of the licensee whose service has been entered, it shall be the duty of such licensee to give such resident trainee an affidavit showing the length of time served with him, which affidavit shall be filed with the board and made a matter of record in that office, and if such resident trainee engages in practice in this State, a request for permission to do so shall be submitted to the board.

A certificate of resident traineeship issued as herein provided shall be signed by the resident trainee and shall be renewable one year after the date of original registration, provided, however, that such certificate may not be renewed more than two times, unless the resident trainee is still eligible for the license examination. The board shall mail to each registered trainee at his last known address a notice that the renewal fee is due and that, if not paid within 30 days of the notice, the certificate shall be cancelled; provided further, that there shall be a penalty for the lapse in renewal of five dollars ($5.00), in addition to the renewal itself; provided, that the registration of any resident trainee who is actually engaged in the active military service of the United States may, at the discretion

of the board, be held in abeyance for the duration of such service without penalties.

All resident trainees registered as provided herein shall be required to report to the board at least every three months upon forms provided by the board showing the work which has been completed during the preceding three months of resident traineeship. The data contained in said report shall be certified as correct by the licensee under whom he has served during such period and by the person licensed who is managing the funeral service establishment. The term of traineeship shall be considered as a primary vocation and may not be served during the time the resident trainee is enrolled at a college for the purpose of qualifying for a license under the provisions of this Article.

Before such resident trainee shall be eligible to receive a license for practice, evidence required by this Article shall be presented along with an affidavit from the licensee or affidavits from the licensees under whom the trainee worked showing that the trainee has assisted in the conducting of at least 25 funerals during resident traineeship, if the application is for a funeral director's license, or that the trainee has assisted in the embalming of at least 25 bodies during resident traineeship, if the application is for an embalmer's license, or both such requirements if the application is for a license as a funeral service licensee. In all applications of resident trainees for licenses for practice under this Article, the eligibility of the applicant shall be determined by the records filed with the board. No credit shall be allowed for such one-year period of resident traineeship that shall have been completed more than three years preceding any examination for such license; provided, however, that the board may waive the limitations of time prescribed in this section for any person during the period of his service in the armed service of the United States where application for such waiver is made in writing within six months of severance therefrom, and in any case in which the board by majority vote of its members present shall determine in its discretion that the enforcement thereof will create an unreasonable hardship.

The board shall have power to suspend or revoke a certificate of resident traineeship for violation of any provision of this Article.

At the same time not more than one resident trainee shall be permitted to register under any one person licensed under this Article. Each sponsor for a registered resident trainee must be actively employed with a funeral establishment as defined in this Article.

(5) The board by regulation may recognize other examinations that the board deems equivalent to its own.

All licenses shall be signed by the president and secretary of the board and the seal of the board affixed thereto. All licenses shall be issued, renewed or duplicated for a period not exceeding one year at fees to be determined by the board not to exceed thirty-five dollars ($35.00), and all licenses, renewals or duplicates thereof shall expire and terminate the thirty-first day of December following the

date of their issue unless sooner revoked and cancelled; provided, that the date of expiration may be changed by unanimous consent of the board and upon 90 days' written notice of such change to all persons licensed for the practice of funeral directing, embalming and funeral service in this State.

The holder of any license issued by the board who shall fail to renew same on or before January 31 of the calendar year for which such license is to be renewed shall be deemed to have forfeited and surrendered such license as of such date. No license so forfeited and surrendered shall be reinstated by the board except upon application in writing within five years following such forfeiture and upon payment of all delinquent annual renewal fees plus a reinstatement fee of ten dollars ($10.00); provided, however, that the board may waive the provisions of this section for the holder of any license during the period of service in the armed services of the United States upon application within six months of severance therefrom, and provided further, that the board may in its discretion upon application of the holder of any license grant the temporary suspension of such license for any period not exceeding five years during which the holder does not engage in the practice of funeral service and reinstate the same without the delinquent annual fees and penalties herein provided whenever such practice is resumed within such period of five years. All licensees now or hereafter licensed in the State of North Carolina are and shall be required to take courses of study in subjects relating to the practice of the profession of embalming and funeral directing to the end that the utilization and application of new techniques, scientific and clinical advances, and the achievements of research will assure expansive and comprehensive care to the public. The length of study shall be 15 hours in a continuing period of three years. Attendance for certification must be at a course or courses approved by the board prior to enrollment. Attendance at any course or courses of study is to be certified to the board upon a form provided by the board. The board shall be allowed to waive this requirement for renewal in cases of certified illness or undue hardship and this requirement shall be waived for all licensed persons who have been licensed for a continuous period of twenty-five (25) years.

Any person who having been previously licensed by the board as a funeral director or embalmer prior to July 1, 1975, shall not be required to satisfy the requirements herein for licensure as a funeral service licensee, but shall be entitled to have such license renewed upon making proper application therefor and upon payment of the renewal fee provided by the provisions of this Article. Persons previously licensed by the board as a funeral director may engage in funeral directing, and persons previously licensed by the board as an embalmer may engage in embalming. Any person having been previously licensed by the board as both a funeral director and an embalmer may upon application therefor receive a license as a funeral service licensee.

(b) Reciprocity. The board, under such rules and regulations as it may prescribe, may grant (1) reciprocal licenses to funeral directors and embalmers licensed in other states, territories, the District of Columbia, and foreign countries; and (2) special permits, permitting nonresident funeral directors and embalmers to remove a body from and to arrange a funeral or embalm a body in this State, but such privileges shall not include the right to establish a place of business in, nor engage generally in the business of funeral directing and embalming in this State. The board shall fix fees to be paid for such reciprocal licenses and courtesy card privileges.

(c) Registration, filing and transportation. The holder of any license granted by this State for those within the funeral service profession or renewal thereof provided for in this Article shall cause registration to be filed in the office of the board of health of the county or city in which he practices his profession, or if there be no board of health in such county or city, at the office of the clerk of the superior court of such county. All such licenses, certificates, duplicates and renewals thereof shall be displayed in a conspicuous place in the funeral establishment where the holder renders service. It shall be unlawful for any railway agent, express agency, baggage master, conductor or other person acting as such, to receive the dead body of any person for shipment or transportation by railway or other public conveyance, to a point outside of this State, unless said body be accompanied by a removal or shipping permit.

(d) Establishment permit. No person, firm or corporation shall conduct, maintain, manage or operate a funeral establishment unless a permit for each such establishment has been issued by the board and is conspicuously displayed in such funeral establishment.

No permit to operate a funeral establishment shall be issued by the board unless each such funeral establishment has in charge a person licensed for the practice of funeral directing or funeral service.

Applications for such funeral establishment permits shall be made on blanks furnished by the board and filed by the owner, a partner or by the registered agent of the corporation with the board on or before January 1 of each year and shall be accompanied by a fee of thirty-five dollars ($35.00). All such permits shall expire on December 31 of each year.

Violation of any provision of this Article or any rules or regulations of the board committed by any owner, partner, officer, agent or employee of a funeral establishment with the consent of any person, firm or corporation operating such funeral establishment shall be considered sufficient cause for suspension or revocation of such funeral establishment permit.

When more than one person proposes to engage in the operation of a funeral establishment as a partnership or as a corporation, it shall be necessary for one such partner or corporate officer to secure a license for the practice of funeral directing or funeral service and be registered by the board as the manager of such funeral establishment. No partner or corporate officer shall hold himself out through advertising or otherwise as being a licensee, unless so licensed.

(e) Violations. Whenever the board shall have reason to believe that any person to whom a license has been issued by the board has become unfit to practice within the funeral service profession, or has violated any of the provisions of this Article, or any rule or regulation of the board, or whenever written complaint charging the holder of such a license with such violation is

filed with the board, any actions taken shall be governed by the provisions of Chapter 150.

The board may refuse to issue or may refuse to renew or may suspend or may revoke any license, or may place the holder thereof on a term of probation after proper hearing upon finding the holder of such license to be guilty of any of the following acts or omissions:

(1) Conviction of a felony or a crime involving moral turpitude.

(2) Unprofessional conduct which is hereby defined to include:

a. Misrepresentation or fraud in the conduct of the funeral service profession, or in obtaining or renewing a license;

b. False or misleading advertising as the holder of a license for practice of funeral service;

c. Solicitation of dead human bodies by the licensee, his agents, assistants, or employees, provided that this subsection shall not be deemed to prohibit general advertising by the licensee;

d. Employment by the licensee of persons known as 'cappers', or 'steerers' or 'solicitors', or other such persons for the purpose of obtaining the services of the licensee;

e. Employment directly or indirectly of any apprentice, agent, assistant or other persons, on a part- or full-time basis, or on commission, for the purpose of calling upon individuals or institutions by whose influence dead human bodies may be turned over to a particular licensee;

f. The direct or indirect giving of certificates of credit or the payment or offer of payment of a commission by the licensee, his agents, assistants or employees for the purpose of securing business;

g. Gross immorality, including being under the influence of alcohol or drugs while practicing funeral services;

h. Aiding or abetting an unlicensed person to perform services under this act, including the use of the picture or name in connection with advertisements or other written material published or caused to be published by the licensee;

i. Using profane, indecent or obscene language in the presence of a dead human body, and within the immediate hearing of the family or relatives of a deceased, whose body has not yet been interred or otherwise disposed of;

j. Violating or cooperating with others to violate any of the provisions of this Article or of the rules and regulations of the board;

k. Violation of any State law or municipal or county ordinance or regulation affecting the handling, custody, care or transportation of dead human bodies;

l. Refusing to promptly surrender the custody of a dead human body upon the express order of the person lawfully entitled to the custody thereof;

m. Knowingly making any false statement on a certificate of death.

No person licensed under this Article shall remove or cause to be embalmed a dead human body when he has information indicating crime or violence of any sort in connection with the cause of death nor shall a dead human body be cremated, until permission of the State or county medical examiner has first

been obtained. However, nothing in this act shall be construed to alter the duties and authority now vested in the office of the coroner.

No funeral service establishment shall accept a dead human body from any public officer (excluding the State or county medical examiner or his agent), or employee or from the official of any institution, hospital or nursing home, or from a physician or any person having a professional relationship with a decedent, without having first made due inquiry as to the desires of the next of kin and of the persons who may be chargeable with the funeral expenses of such decedent. If any such kin be found, his or her authority and directions shall govern the disposal of the remains of such decedent. Any funeral service establishment receiving such remains in violation hereof shall make no charge for any service in connection with such remains prior to delivery of same as stipulated by such kin; provided, however, this section shall not prevent any funeral service establishment from charging and being reimbursed for services rendered in connection with the removal of the remains of any deceased person in case of accidental or violent death, and rendering necessary professional services required until the next of kin or the persons chargeable with the expenses have been notified.

When and where a licensee presents a selection of funeral merchandise to the public to be used in connection with the service to be provided by the licensee or an establishment as licensed under this Article, a card or brochure shall be directly associated with each item of merchandise setting forth the price of the service using said merchandise and listing the services and other merchandise included in the price, if any. When there are separate prices for the merchandise and services, such cards or brochures shall indicate the price of the merchandise and of the items separately priced.

At the time funeral arrangements are made and prior to the time of rendering the service and providing the merchandise, a funeral director or funeral service licensee shall give or cause to be given to the person or persons making such arrangements a written statement duly signed by a licensee of said funeral establishment showing the price of the service as selected and what services are included therein, the price of each of the supplemental items of services or merchandise requested, and the amounts involved for each of the items for which the funeral establishment will advance monies as an accommodation to the person making arrangements, insofar as any of the above items can be specified at that time.

(f) Unlawful Practices. If any person shall practice or hold himself out as practicing the profession or art of embalming, funeral directing or practice of funeral service without having complied with the licensing provisions of this Article, he shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than five hundred dollars ($500.00) or imprisonment for not more than six months, or both, in the discretion of the court."

Sec. 2. This act shall become effective October 1, 1975.

In the General Assembly read three times and ratified, this the 12th day of June, 1975.

S. B. 786 **CHAPTER 572**

AN ACT TO AMEND G.S. 90-106 TO REGULATE THE DISTRIBUTION OF CONTROLLED SUBSTANCES BY MANUFACTURERS' SALES REPRESENTATIVES TO PRACTITIONERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-106 is hereby amended by adding a new subsection (i) to read as follows:

"(i) A manufacturer's sales representative may distribute a controlled substance as a complimentary sample only upon the written request of a practitioner. Such request must be made on each distribution and must contain the names and addresses of the supplier and the requester and the name and quantity of the specific controlled substance requested. The manufacturer shall maintain a record of each such request for a period of two years."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of June, 1975.

S. B. 840 **CHAPTER 573**

AN ACT TO POSTPONE THE EFFECTIVE DATE OF CHAPTER 1286 OF THE 1973 SESSION LAWS TO SEPTEMBER 1, 1975.

Whereas, the Administrative Office of the Courts, revising the forms necessary to implement the Pretrial Criminal Procedure Act, has pointed out that there is other proposed legislation which, if enacted, would change the amount of costs assessable in district court; and

Whereas, the effect of the proposed changes in court costs is such that reprinted editions of the citation forms should accurately reflect any legislative changes enacted this year; and

Whereas, the Administrative Office of the Courts has requested the Criminal Code Commission to support a postponement in the effective date of the Criminal Pretrial Procedure Act for the amount of time necessary to actually reprint the citation forms in order to minimize administrative complications in implementation of the act and to eliminate unnecessary costs in the administration of justice; and

Whereas, the Criminal Code Commission concurs with the Administrative Office of the Courts' recommendation that the maximum necessary postponement is 45 to 60 days after July 1, 1975; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Section 31 of Chapter 1286 of the 1973 Session Laws is amended by striking out on line 1 of this section the words and numbers "July 1, 1975" and inserting in lieu thereof the words and numbers "September 1, 1975".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of June, 1975.

S. B. 859 **CHAPTER 574**

AN ACT TO PROVIDE FOR THE ELECTION AND TERMS OF THE MEMBERS OF SAMPSON COUNTY BOARD OF COMMISSIONERS.

The General Assembly of North Carolina enacts:

Section 1. The Board of County Commissioners of Sampson County shall consist of five members who shall be nominated and elected by the qualified voters of the entire County. The members shall be elected for staggered terms of four years as herein provided. The primary and election shall be held and conducted in accordance with the general election laws of this State except as otherwise provided herein.

Sec. 2. Beginning with the general election for County officers to be held in 1976, the three candidates receiving the highest number of votes shall be elected for terms of four years, and the two candidates receiving the next highest number of votes shall be elected for terms of two years. Thereafter, as the terms of the members expire, their successors shall be elected for terms of four years.

Sec. 3. Vacancies occurring on the Board of County Commissioners for any cause shall be filled as provided in G.S. 153A-27.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of June, 1975.

S. B. 889 **CHAPTER 575**

AN ACT TO PLACE FORSYTH COUNTY UNDER THE PROVISIONS OF G.S. 20-219.2 WHICH PROVIDES FOR REMOVAL OF MOTORS OR OTHER VEHICLES ILLEGALLY PARKED IN PRIVATELY OWNED OR LEASED PARKING SPACES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-219.2, as the same appears in the 1974 Cumulative Supplement to Volume 1C of the General Statutes, is hereby amended in line 1 of subsection (c) by inserting the word and punctuation "Forsyth," immediately after the word and punctuation "Craven,".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of June, 1975.

H. B. 453 **CHAPTER 576**

AN ACT TO PRORATE THE MUNICIPAL TAXES IMPOSED UPON NEWLY ANNEXED TERRITORY.

The General Assembly of North Carolina enacts:

Section 1. Article 4A of Chapter 160A is hereby amended by deleting in its entirety the last sentence of G.S. 160A-24, as the same appears in the 1974 Cumulative Supplement to Volume 3D of the General Statutes, and inserting in lieu thereof:

"If territory is annexed its liability for municipal taxes for the fiscal year in which it is annexed shall be determined by applying the following ratio against the total taxes that would be due on the property if it had been annexed prior to the beginning of the fiscal year: The numerator shall be the number 365 minus

the total number of days after the preceding July 1 and immediately prior to the effective date of the annexation, and the denominator shall be the number 365. However, the due date of such municipal taxes shall be the effective date of annexation of said territory and the taxes may be paid at par or face amount at any time before the one hundred and twentieth day after the due date. On or after the one hundred and twentieth day and before the one hundred and fiftieth day from the due date there shall be added to the taxes interest at the rate of two percent (2%). On or after the one hundred and fiftieth day from the due date, there shall be added to the taxes, in addition to the two percent (2%) provided above, interest at the rate of three-fourths of one percent (3/4 of 1%) per 30 days or fraction thereof until the taxes plus interest have been paid."

Sec. 2. Article 4A of Chapter 160A is hereby amended by deleting in its entirety the second sentence of G.S. 160A-31(e), as the same appears in the 1974 Cumulative Supplement to Volume 3D of the General Statutes, and inserting in lieu thereof the following:

"If territory is annexed its liability for municipal taxes for the fiscal year in which it is annexed shall be determined by applying the following ratio against the total taxes that would be due on the property if it had been annexed prior to the beginning of the fiscal year: The numerator shall be the number 365 minus the number of days after the preceding July 1 and immediately prior to the effective date of the annexation, and the denominator shall be the number 365. However, the due date of such municipal taxes shall be the effective date of annexation of said territory and the taxes may be paid at par or face amount at any time before the one hundred and twentieth day after the due date. On or after the one hundred and twentieth day and before the one hundred and fiftieth day from the due date there shall be added to the taxes interest at the rate of two percent (2%). On or after the one hundred and fiftieth day from the due date, there shall be added to the taxes, in addition to the two percent (2%) provided above, interest at the rate of three-fourths of one percent (3/4 of 1%) per 30 days or fraction thereof until the taxes plus interest have been paid."

Sec. 3. Article 4A of Chapter 160A is hereby amended by deleting the second sentence of G.S. 160A-37(f), as the same appears in the 1974 Cumulative Supplement to Volume 3D of the General Statutes, and inserting in lieu thereof the following:

"If territory is annexed its liability for municipal taxes for the fiscal year in which it is annexed shall be determined by applying the following ratio against the total taxes that would be due on the property if it had been annexed prior to the beginning of the fiscal year: The numerator shall be the number 365 minus the number of days after the preceding July 1 and immediately prior to the effective date of the annexation, and the denominator of which is the number 365. However, the due date of such municipal taxes shall be the effective date of annexation of said territory and the taxes may be paid at par or face amount at any time before the one hundred and twentieth day after the due date. On or after the one hundred and twentieth day and before the one hundred and fiftieth day from the due date there shall be added to the taxes interest at the rate of two percent (2%). On or after the one hundred and fiftieth day from the due date, there shall be added to the taxes, in addition to the two percent (2%) provided above, interest at the rate of three-fourths of one percent (3/4 of 1%) per 30 days or fraction thereof until the taxes plus interest have been paid."

Sec. 4. Article 4A of Chapter 160A is hereby amended by deleting the second sentence of G.S. 160A-49(f), as the same appears in the 1974 Cumulative Supplement to Volume 3D of the General Statutes, and inserting in lieu thereof the following:

"If territory is annexed its liability for municipal taxes for the fiscal year in which it is annexed shall be determined by applying the following ratio against the total taxes that would be due on the property if it had been annexed prior to the beginning of the fiscal year: The numerator shall be the number 365 minus the total number of days after the preceding July 1 and immediately prior to the effective date of the annexation, and the denominator shall be the number 365. However, the due date of such municipal taxes shall be the effective date of annexation of said territory and the taxes may be paid at par or face amount at any time before the one hundred and twentieth day after the due date. On or after the one hundred and twentieth day and before the one hundred and fiftieth day from the due date there shall be added to the taxes interest at the rate of two percent (2%). On or after the one hundred and fiftieth day from the due date, there shall be added to the taxes, in addition to the two percent (2%) provided above, interest at the rate of three-fourths of one percent (3/4 of 1%) per 30 days or fraction thereof until the taxes plus interest have been paid."

Sec. 5. Article 4A of Chapter 160A is hereby amended by deleting the second sentence of G.S. 160A-58.3, as the same appears in the 1974 Cumulative Supplement to Volume 3D of the General Statutes, and inserting in lieu thereof:

"If territory is annexed its liability for municipal taxes for the fiscal year in which it is annexed shall be determined by applying the following ratio against the total taxes that would be due on the property if it had been annexed prior to the beginning of the fiscal year: The numerator shall be the number 365 minus the total number of days after the preceding July 1 and immediately prior to the effective date of the annexation, and the denominator shall be the number 365. However, the due date of such municipal taxes shall be the effective date of annexation of said territory and the taxes may be paid at par or face amount at any time before the one hundred and twentieth day after the due date. On or after the one hundred and twentieth day and before the one hundred and fiftieth day from the due date there shall be added to the taxes interest at the rate of two percent (2%). On or after the one hundred and fiftieth day from the due date, there shall be added to the taxes, in addition to the two percent (2%) provided above, interest at the rate of three-fourths of one percent (3/4 of 1%) per 30 days or fraction thereof until the taxes plus interest have been paid."

Sec. 6. This act shall become effective January 1, 1976.

In the General Assembly read three times and ratified, this the 12th day of June, 1975.

H. B. 527 **CHAPTER 577**

AN ACT TO ABOLISH THE OFFICE OF CORONER IN ALAMANCE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The office of coroner in Alamance County is hereby abolished upon the expiration of the term of the incumbent coroner, or at the time the office becomes vacant for any reason, whichever occurs first.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of June, 1975.

H. B. 540 **CHAPTER 578**

AN ACT TO CLASSIFY CERTAIN HISTORIC PROPERTIES FOR AD VALOREM TAXATION.

The General Assembly of North Carolina enacts:

Section 1. Section 105-277 of the North Carolina General Statutes as it appears in the 1974 Cumulative Supplement to Volume 2D of the General Statutes is amended by adding a new subsection (f) to read as follows:

"(f) *Historic properties.*—(1) Real property designated as historic property by a local ordinance adopted pursuant to G.S. 160A-399.4 is hereby designated a special class of property under authority of Article V, Section 2(2), of the North Carolina Constitution. Historic property so classified shall be taxed upon annual application of the property owner uniformly as a class in each local taxing unit at fifty percent (50%) of the rate levied for all purposes upon real and tangible personal property by the taxing unit or units in which the historic property is listed for taxation.

(2) The difference between the taxes due on the basis of fifty percent (50%) of the full tax rate and the taxes that would have been payable in the absence of the classification provided for in subdivision (1) of this subsection (f) shall be a lien on the real property of the taxpayer as provided in G.S. 105-355(a) and shall be carried forward in the records of the taxing unit or units as deferred taxes, but shall not be payable until the property loses its eligibility for the benefit of this classification because of a change in a local historic properties ordinance or any other reason. The tax for the fiscal year that opens in the calendar year in which a disqualification occurs shall be computed as if the property had not been classified for that year, and taxes for the preceding five fiscal years that have been deferred as provided herein shall be payable immediately, together with interest thereon as provided in G.S. 105-360 for unpaid taxes, which shall accrue on the deferred taxes as if they had been payable on the dates on which they originally became due. If only a part of the historic property loses its eligibility for the classification, a determination shall be made of the amount of deferred taxes applicable to that part, and the amount shall be payable with interest as provided above."

Sec. 2. This act shall become effective January 1, 1976.

In the General Assembly read three times and ratified, this the 12th day of June, 1975.

H. B. 1038 **CHAPTER 579**

AN ACT TO EXEMPT WARREN COUNTY FROM ARTICLE 7A OF CHAPTER 113 OF THE GENERAL STATUTES ENTITLED "SAFE DISTANCES FOR HUNTING MIGRATORY WILD WATERFOWL".

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-109.8 is amended by striking the word "and" before the word "Tyrrell" on line three and inserting a comma and the words "and Warren" before the word "counties".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of June, 1975.

H. B. 1041 **CHAPTER 580**

AN ACT TO AMEND G.S. 143-49(4) SO AS TO ESTABLISH AN EQUIPMENT RESERVE FUND FROM RECEIPTS OF SALES OR TRANSFERS OF PERSONAL PROPERTY BY STATE DEPARTMENTS, INSTITUTIONS AND AGENCIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-49(4) is hereby amended by inserting at the end of the first sentence thereof the following language:

"All receipts from the transfer or sale of such surplus, obsolete or unused equipment of State departments, institutions and agencies which are supported by appropriations from the General Fund, except where such receipts have been anticipated for, or budgeted against the cost of replacements, shall be placed by the director in an Equipment Reserve Fund from which expenditures may be made only with prior approval of the Director of the Budget and the Advisory Budget Commission."

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 12th day of June, 1975.

S. B. 97 **CHAPTER 581**

AN ACT TO ALLOW PAROLE OF CERTAIN MISDEMEANANTS UNLESS THE SAME ARE SPECIFICALLY OBJECTED TO BY THE PAROLE COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. A new section to Article 4 of Chapter 148 of the General Statutes to read as follows:

"§ 148-60.3. *Parole for misdemeanants.*—(a) Subject to the provision of subsection (b), the Parole Commission shall parole every misdemeanant within the jurisdiction of the Department of Correction, serving a maximum sentence of less than 12 months at the expiration of one-third of his sentence if determinant or one-third of his minimum sentence if indeterminant.

This section shall not apply to any youthful offender as defined in G.S. 148-49.2.

(b) If the Parole Commission determines that there is reasonable probability:

(1) that the prisoner will not live and remain at liberty without violating the law; or

(2) that the release of the prisoner is incompatible with the welfare of society, it may, in its discretion, deny the parole provided for in subsection (a).

In making such determination the Parole Commission shall consider the prisoner's record during confinement.

(c) In cases where parole is refused as provided in subsection (b) of this section, the Parole Commission shall so inform the Department of Correction and the concerned misdemeanant at least seven days prior to the date on which the misdemeanant would have been paroled under subsection (a)."

Sec. 2. Misdemeanants paroled under the provisions of this act may be relieved from the reporting requirements of G.S. 148-61 as provided in 148-58.1(b) but shall be subject to all other rules and regulations governing parole release, supervision and revocation.

Sec. 3. Paroles granted under provisions of this act shall be for a period of six months. A person paroled under provisions of this act who is charged with a new crime during the six-month period and subsequently convicted, resulting in parole revocation, shall serve the balance of the sentence before he may be considered for parole review.

Sec. 4. The provisions of this act shall not apply to any person sentenced to a term of special probation as provided in G.S. 15-197.1.

Sec. 5. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 13th day of June, 1975.

S. B. 156 CHAPTER 582

AN ACT TO AMEND CHAPTERS 84 AND 7A RELATIVE TO THE NORTH CAROLINA STATE BAR REGARDING ATTORNEY DISCIPLINE AND DISABILITY CASES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 84-4.1(3) is amended by deleting the last portion thereof which now reads:

"he agrees that he shall be subject to the orders and amenable to the disciplinary actions and the civil jurisdiction of the General Court of Justice in all respects as if he were a regularly admitted and licensed member of the Bar of North Carolina in good standing."

and the same is rewritten as follows:

"he agrees that he shall be subject to the orders and amenable to the disciplinary action and the civil jurisdiction of the General Court of Justice and The North Carolina State Bar in all respects as if he were a regularly admitted and licensed member of the Bar of North Carolina in good standing."

Sec. 2. G.S. 84-4.1(5) is amended by deleting the last portion thereof which now reads:

"upon whom service may be had in all matters connected with such legal proceedings, with the same effect as if personally made on such foreign attorney within this State."

and the same is rewritten as follows:

"upon whom service may be had in all matters connected with such legal proceedings, or any disciplinary matter, with the same effect as if personally made on such foreign attorney within this State."

Sec. 3. G.S. 84-23 is rewritten to read as follows:

"§ 84-23. *Powers of council.*—Subject to the superior authority of the General Assembly to legislate thereon by general law, and except as herein otherwise limited, the Council is hereby vested, as an agency of the State, with the control of the discipline, disbarment and restoration of attorneys practicing law in this State. The Council shall have power to administer this Article; to formulate and adopt rules of professional ethics and conduct; to formulate and adopt rules and procedures for discipline, incapacity and disability hearings; to publish an official journal concerning matters of interest to the legal profession; and to do all such things necessary in the furtherance of the purposes of this Article as are not prohibited by law."

Sec. 4. G.S. 84-27 is added to read as follows:

"§ 84-27. *Persons immune from suit.*—Persons shall be immune from suit for all statements made without malice, and intended for transmittal to The North Carolina State Bar or any committee, officer, agent or employee thereof, or given in any investigation or proceedings, pertaining to alleged misconduct, incapacity or disability or to reinstatement of an attorney. The protection of this immunity does not exist, however, as to statements made to others not intended for such use."

Sec. 5. G.S. 84-28 is rewritten to read as follows:

"§ 84-28. *Discipline and disbarment.*—(1) Any attorney admitted to practice law in this State is subject to the disciplinary jurisdiction of the Council of The North Carolina State Bar under such rules and procedures as the Council shall promulgate as provided in G.S. 84-21.

(2) The following acts or omissions by a member of The North Carolina State Bar or any attorney admitted for limited practice under G.S. 84-4.1, individually or in concert with any other person or persons, shall constitute misconduct and shall be grounds for discipline whether the act or omission occurred in the course of an attorney-client relationship or otherwise:

(a) conviction of a criminal offense showing professional unfitness;

(b) the violation of the Code of Professional Responsibility adopted and promulgated by the Council of The North Carolina State Bar in effect at the time of the act;

(c) knowing misrepresentation of any facts or circumstances surrounding any complaint, allegation or charge of misconduct; failure to answer any formal inquiry or complaint issued by or in the name of The North Carolina State Bar in any disciplinary matter; or contempt of the Council or any committee of The North Carolina State Bar.

(3) Misconduct by any attorney shall be grounds for:

(a) disbarment; or

(b) suspension for a period not exceeding three years; or

(c) public censure; or

(d) private reprimand.

(4) Any attorney admitted to practice law in this State who is convicted of a criminal offense showing professional unfitness may be suspended from the practice of law, but such suspension shall not take effect pending any appeal of the conviction.

(5) Any attorney admitted to practice law in this State who is disciplined in another jurisdiction shall be subject to the same discipline in this State: Provided, that the discipline imposed in the other jurisdiction does not exceed that provided for in subsection (3) above and that the attorney was not deprived of due process in the other jurisdiction.

(6) Upon application by The North Carolina State Bar, misconduct by an attorney admitted to practice in this State may be restrained or enjoined where the necessity for prompt action exists regardless of whether a disciplinary proceeding in the matter of such conduct is pending. Such application shall be filed in the Superior Court of Wake County and shall be governed by the procedure set forth in G.S. 1A-1, Rule 65.

(7) Any member of The North Carolina State Bar may be transferred to inactive status for mental incompetence or physical disability interfering with the attorney's ability to competently engage in the practice of law under such rules and procedures as the Council shall promulgate as provided in G.S. 84-21.

(8) There shall be an appeal of right from any final order imposing reprimand, censure, suspension or disbarment upon an attorney, or involuntary transferring a member of The North Carolina State Bar to inactive status for mental incompetence or physical disability, to the appellate division. Review by the appellate division shall be upon matters of law or legal inference. The procedures governing any such appeal shall be as provided by statute or court rule for appeals in civil cases. Any discipline imposed by such final order shall be stayed pending determination of the appeal.

(9) The North Carolina State Bar may invoke the process of the General Court of Justice to enforce the powers of the Council or any committee to which the Council delegates its authority.

(10) The North Carolina State Bar may apply to appropriate courts for orders necessary to protect the interests of clients of missing, disabled, incapacitated or deceased attorneys.

The senior regular resident judge of the superior court of any district wherein a member of The North Carolina State Bar resides or maintains an office shall have the authority and power to enter such orders as are necessary to protect the interests of such clients, including the authority to order the payment of counsel fees from the estate of the member to any attorney appointed to administer or conserve the law practice of the member."

Sec. 6. G.S. 84-28.1 is added to read as follows:

"§ 84-28.1. *Disciplinary Hearing Commission.*—(1) There shall be a Disciplinary Hearing Commission of The North Carolina State Bar which shall consist of 15 members. Ten of these members shall be members of The North Carolina State Bar, and shall be appointed by the Council. The other five shall be citizens of North Carolina not licensed to practice law in this or any other state, three of whom shall be appointed by the Governor, one by the Lieutenant Governor, and one by the Speaker of the House of Representatives. The Council shall designate one of its appointees as chairman and another as vice-chairman. The chairman shall have actively practiced law in the courts of the State for at least 10 years. When the Commission is first selected, five members, including three appointed by the Council, one appointed by the Governor and the one appointed by the Speaker of the House of Representatives, shall be appointed for terms of one year; five members, including three appointed by the Council, one appointed by the Governor and the one appointed by the Lieutenant Governor,

shall be appointed for terms of two years; and the remaining five members shall be appointed for terms of three years. All such initial terms shall commence July 1, 1975. Thereafter five members shall be appointed each year to three-year terms to fill the positions of the terms then expiring. The Council, the Governor, the Lieutenant Governor and the Speaker of the House of Representatives, respectively, shall appoint members to fill the unexpired term when any vacancy is created by resignation, disqualification, disability or death. No member may serve more than a total of six years or two consecutive terms: Provided, that any member or former member who is designated chairman may serve one additional three-year term in that capacity. No member of the Council may be appointed to the Commission.

(2) The Disciplinary Hearing Commission of The North Carolina State Bar, or any committee thereof, is authorized to hold hearings in discipline, incapacity and disability matters, to make findings of fact and conclusions of law after such hearings, and to enter orders necessary to carry out the duties delegated to it by the Council.

(3) Members of the Disciplinary Hearing Commission shall receive the same per diem and travel expenses as are authorized for members of State Commissions under G.S. 138-5."

Sec. 7. G.S. 84-29 is rewritten to read as follows:

"§ 84-29. *Evidence and witnesses.*—In any investigation of charges of professional misconduct, incapacity or disability the Council and any committee thereof, and the Disciplinary Hearing Commission, and any committee thereof, may administer oaths and affirmations and shall have the power to subpoena and examine witnesses under oath, and to compel their attendance, and the production of books, papers and other documents or writings deemed by it necessary or material to the inquiry. Each subpoena shall be issued under the hand of the secretary-treasurer or the president of the Council or the chairman of the committee appointed to hear the charges, and shall have the force and effect of a summons or subpoena issued by a court of record, and any witness or other person who shall refuse or neglect to appear in obedience thereto, or to testify or produce the books, papers, or other documents or writings required, shall be liable to punishment for contempt either by the Council or its committee, but with the right to appeal therefrom. Depositions may be taken in any investigations of professional misconduct as in civil proceedings, but the Council or the committee hearing the case may, in its discretion, whenever it believes that the ends of substantial justice so require, direct that any witness within the State be brought before it. Witnesses giving testimony under a subpoena before the Council or any committee thereof, or the Disciplinary Hearing Commission or any committee thereof, or by deposition, shall be entitled to the same fees as in civil actions.

In cases heard before the Council or any committee thereof or the Disciplinary Hearing Commission or any committee thereof, if the party shall be convicted of the charges against him, he shall be taxed with the cost of the hearings: Provided, however, that such bill of costs shall not include any compensation to the members of the Council or committee before whom the hearings are conducted."

Sec. 8. G.S. 84-30 is rewritten to read as follows:

"§ 84-30. *Rights of accused person.*—Any person who shall stand charged with an offense cognizable by the Council or any committee thereof or the

Disciplinary Hearing Commission or any committee thereof shall have the right to invoke and have exercised in his favor the powers of the Council or any committee, in respect of compulsory process for witnesses and for the production of books, papers, and other writings and documents, and shall also have the right to be represented by counsel."

Sec. 9. G.S. 84-31 is rewritten to read as follows:

"§ 84-31. *Counsel; investigators; powers; compensation.*—The Council may appoint a member of The North Carolina State Bar to prosecute charges of misconduct, incapacity or disability in such hearings as may be held, including appeals, and may authorize such counsel to employ assistant counsel, investigators, and administrative assistants in such numbers as it deems necessary. Counsel and investigators engaged in discipline, incapacity and disability matters shall have the authority throughout the State to serve subpoenas or other process issued by the Council or any committee thereof or the Disciplinary Hearing Commission or any committee thereof, in the same manner and with the same effect as an officer authorized to serve process of the General Court of Justice. The Council may allow counsel, assistant counsel, investigators and administrative assistants such compensation as it deems proper."

Sec. 10. G.S. 84-32 is rewritten to read as follows:

"§ 84-32. *Records and judgments and their effect; restoration of licenses.*—In cases heard by the Disciplinary Hearing Commission or any committee thereof, a complete record of the proceedings and evidence shall be made and preserved in the office of the secretary-treasurer. Final judgments of suspension or disbarment shall be entered upon the judgment docket of the superior court in the district wherein the accused resides or practices law, and also upon the minutes of the Supreme Court of North Carolina; and such judgment shall be effective throughout the State.

Whenever an attorney desires to voluntarily surrender his license to the Council and the Council consents to accept the same, he shall make such request and surrender in writing directed to the Council and the Council shall enter an order containing the conditions of acceptance of said license, and a copy of such order shall be filed with the clerk of the Supreme Court and with the clerk of the superior court of the county of residence or prior residence of the licensee or the county wherein the attorney maintains an office for the practice of law; provided, however, that the Council may refuse to accept surrender of license in any case.

Whenever any attorney has been deprived of his license, the Council, in its discretion, may restore said license upon due notice being given and satisfactory evidence produced of proper reformation of the licentiate before restoration. The Council may prescribe rules and procedures for the conduct of any hearing regarding restoration and may require the Disciplinary Hearing Commission or a committee thereof to conduct such hearing."

Sec. 11. G.S. 84-36.1 is added to read as follows:

"§ 84-36.1. *Clerks of Court to certify orders.*—The clerk of any court of this State in which a member of the North Carolina State Bar is convicted of any criminal offense, disciplined, found to be in contempt of the court or adjudged incompetent shall transmit a certified copy of the order or judgment to the secretary-treasurer of The North Carolina State Bar within 10 days of the entry of such judgment or order."

Sec. 12. G.S. 7A-29 is rewritten to read as follows:

"§ 7A-29. *Appeals to Court of Appeals.*—From any final order or decision of the North Carolina Utilities Commission, the North Carolina Industrial Commission, The North Carolina State Bar pursuant to G.S. 84-28 or an appeal from the Commissioner of Insurance pursuant to G.S. 58-9.4, appeal lies of right directly to the Court of Appeals."

Sec. 13. This act shall become effective on July 1, 1975, and shall apply to all cases, actions and proceedings arising on and after said date.

In the General Assembly read three times and ratified, this the 13th day of June, 1975.

S. B. 244

CHAPTER 583

AN ACT TO AMEND CHAPTER 143, ARTICLE 21, FOR THE PURPOSE OF ENABLING THE STATE TO OBTAIN AUTHORITY TO ADMINISTER THE FEDERAL DISCHARGE PERMIT PROGRAM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-215(b), as the same appears in the 1974 Cumulative Supplement to Volume 3C of the General Statutes, is amended by deleting all language following the word "waters" in line 7 and by inserting a period after the word "waters".

Sec. 2. G.S. 143-215.1(a), as the same appears in the 1974 Cumulative Supplement to Volume 3C of the General Statutes, is hereby amended by deleting the entire phrase preceding the words "no person" in line 3.

Sec. 3. G.S. 143-215.1(a)(4), as the same appears in the 1974 Cumulative Supplement to Volume 3C of the General Statutes, is hereby amended by deleting all language following the word "water" in line 6 and by inserting a semicolon after the word "water".

Sec. 4. G.S. 143-215.1(b), as the same appears in the 1974 Cumulative Supplement to Volume 3C of the General Statutes, is hereby amended by deleting subparagraph (2) and renumbering subparagraph (3) as subparagraph (2). It is further amended by deleting the word "section" found in lines 9 and 18 and substituting therefor the word "Article" and by rewriting the sentence beginning with the word "The" in line 1 of G.S. 143-215.1(b) to read: The Environmental Management Commission shall act on all permits so as to prevent, so far as reasonably possible, considering relevant standards under State and federal laws, any significant increase in pollution of the waters of the State from any new or enlarged sources."

Sec. 5. G.S. 143-215.3(a)(2), as the same appears in the 1974 Cumulative Supplement to Volume 3C of the General Statutes, is hereby amended by deleting the sentence following the colon in line 11, and inserting in lieu thereof the following:

"Provided that any records, reports or information obtained under Articles 21, 21A and 21B (a) shall, in the case of effluent or emission data, be related to any applicable effluent or emission limitations, toxic, pretreatment or new source performance standards, and (b) shall be available to the public except that upon a showing satisfactory to the Enviromental Management Commission by any person that records, reports or information or particular part thereof (other than effluent or emission data), to which the commission has access under these Articles, if made public would divulge methods or processes entitled

to protection as trade secrets of such person, the commission shall consider such record, report or information, or particular portion thereof confidential, except that such record or information may be disclosed to employees of the department concerned with carrying out the provisions of these Articles or when relevant in any proceeding under these Articles. The commission shall provide for adequate notice to the party submitting the information of any decision that such information is not entitled to confidential treatment and of any decision to release information which the submitting party contends is entitled to confidential treatment."

Sec. 6. G.S. 143-215.3(e)(2), as the same appears in the 1974 Cumulative Supplement to Volume 3C of the General Statutes, is hereby amended by deleting the word "or" in line 4, after the word "variance" and inserting in lieu thereof the word "and,"; by striking the word "variance" in line 4 and inserting in lieu thereof the word "variances"; and by changing the period at the end of the sentence following the word "public" to a comma and inserting after the word "public," the following:

"provided that such variances shall be consistent with the provisions of the Federal Water Pollution Control Act Amendments of 1972 or the Federal Clean Air Act; and provided further, that any person who would otherwise be entitled to a variance or modification under the Federal Water Pollution Control Act Amendments of 1972 or the Federal Clean Air Act shall also be entitled to the same variance from or modification in rules, regulations, standards or limitations established pursuant to G.S. 143-214.1, G.S. 143-215, and G.S. 143-215.107, respectively."

Sec. 7. G.S. 143-215.6(a)(2), as the same appears in the 1974 Cumulative Supplement to Volume 3C of the General Statutes, is hereby amended by deleting the word "willful" in line 2 and inserting in place thereof the word "continuous".

Sec. 8. G.S. 143-214.1(d), as the same appears in the 1974 Supplement to Volume 3C of the General Statutes, is amended by adding a subsection (4) to read as follows:

"(4) In revising existing or adopting new water quality classifications or standards, the commission shall consider the use and value of State waters for public water supply, propagation of fish and wildlife, recreation, agriculture, industrial and other purposes, use and value for navigation, and should take into consideration, among other things, an estimate as prepared under Section 305(b)(1) of the Federal Water Pollution Control Act Amendments of 1972 of the environmental impact, the economic and social costs necessary to achieve the proposed standards, the economic and social benefits of such achievement and an estimate of the date of such achievement."

Sec. 9. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of June, 1975.

S. B. 422 **CHAPTER 584**

AN ACT TO BENEFIT NORTH CAROLINA'S PRISONERS OF WAR.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-81.4 is amended by adding to the caption "and ex-prisoners of war" and by redesignating existing subsections (b) and (c) as subsections (c) and (d) respectively and existing subsection (d) as subsection (f) and by adding new subsections (b) and (e) to read as follows:

"(b) From and after January 1, 1976, the North Carolina Department of Motor Vehicles shall provide and issue on a first-come first-serve basis to each ex-prisoner of war in this State registration and special P.O.W. registration plates for either one automobile or one pickup truck, where a pickup truck is the ex-prisoner of war's only mode of transportation and is not used for hire, and ex-prisoner of war being, for the purpose of this subsection, an American service person captured and held prisoner by forces hostile to the United States while serving in the armed forces of the United States in World War I, World War II, Korean service or Vietnam service, who was a resident of North Carolina at the time he entered that period of service during which he became a prisoner of war.

(e) The registration plate provided for by this section for ex-prisoners of war shall be issued at no additional fee and only upon proof as may be required by the Department of Motor Vehicles as to ex-prisoners of war's status and proof of financial responsibility as required by the motor vehicle laws of North Carolina."

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 13th day of June, 1975.

S. B. 432 **CHAPTER 585**

AN ACT TO AMEND CHAPTER 596 OF THE 1973 SESSION LAWS TO PROVIDE FOR TWO GOVERNOR'S APPOINTEES, FOUR-YEAR STAGGERED TERMS, AND OTHER CHANGES INVOLVING THE MEMBERS OF THE ARCHAEOLOGICAL ADVISORY COMMITTEE.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 596 of the 1973 Session Laws is hereby amended as follows:

(a) By striking from lines 5 and 6 the words "State Historian as Chairman and" and after the word and punctuation in line 6 "members": inserting the words and punctuation "two members who are citizens of North Carolina and interested in the archaeology of the State appointed by the Governor,".

(b) By striking the period in line 12 after the words "North Carolina Archaeological Advisory Council" and substituting in lieu thereof a semicolon followed by the words "and the Secretary of Cultural Resources or his designee as an *ex officio* member."

(c) By striking the remainder of Section 2 after the words "in accordance with State policy." which appear in lines 14 and 15 and substituting in lieu thereof the words, "Members shall be appointed for staggered four-year terms beginning July 1 of odd-numbered years and shall serve until their successors are appointed and qualified. The present members of the Archaeological Advisory Committee shall serve the remainder of their terms, which will expire June 30,

1975. To create and maintain staggered terms, one at-large member appointed by the Governor, the member appointed by the President of the Senate, and the member appointed by the Tribal Council of the Eastern Band of the Cherokee shall be appointed for a term of two years to expire June 30, 1977, at which time their successors shall be appointed pursuant to this act for four-year terms. The remaining Committee members shall be appointed for four-year terms to expire June 30, 1979. The Chairman shall be designated by the Governor from among the members of the Committee and shall serve until the expiration of his regularly appointed term.

Sec. 2. Chapter 596 of the 1973 Session Laws is further amended by redesignating Section 3 and Section 5 by adding a new Section 3 and Section 4 to read as follows:

"Sec. 3. The Governor shall have the power to remove any member of the Committee from office in accordance with the provisions of G.S. 143B-16 of the Executive Organization Act of 1973.

Sec. 4. An appointment to fill a vacancy on the Committee shall be made, according to the procedures for appointment for regular terms, pursuant to this act. Any appointment to fill a vacancy on the Committee for any reason shall be for the balance of the unexpired term."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of June, 1975.

S. B. 453 CHAPTER 586

AN ACT TO AMEND G.S. 18A-38 AND G.S. 18A-29 TO PROVIDE FOR THE SALE OF INTOXICATING LIQUOR TO OCEANGOING VESSELS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 18A-38 is hereby amended by adding thereto a new subsection "(g)" which shall read as follows:

"(g) Notwithstanding any provision of law contained in this Chapter or in Article 2C of Chapter 105 of the General Statutes, it shall be lawful for any wholesaler or retailer in possession of a valid permit issued by the State Board of Alcoholic Control to sell and deliver malt beverages and wine (both fortified and unfortified) for use or consumption by or on oceangoing vessels which ply the high seas in interstate or foreign commerce, in the transport of freight or passengers, or both, for hire exclusively, when delivered to an officer or agent of such vessel. The State Board shall have authority to promulgate regulations and rules governing the sale and delivery of such malt beverages and wine including the authority to issue such permits as may be reasonably required by the State Board."

Sec. 2. G.S. 18A-29 is hereby amended by adding thereto a new subsection "(c)" which shall read as follows:

"(c) Notwithstanding any provision of law contained in this Chapter or in Article 2C of Chapter 105 of the General Statutes, spirituous liquors may be imported into North Carolina under United States customs bonds and may be held in North Carolina in United States customs bonded warehouses. Spirituous liquors may be removed from any such United States customs bonded warehouse, wherever situated within the State, to any other such warehouse located in the State and be held in the State. Such spirituous liquors so imported

or removed to such warehouses in North Carolina shall be released from customs bonds in North Carolina only on permits issued by the State Board of Alcoholic Control for delivery to oceangoing vessels which ply the high seas in interstate or foreign commerce, in the transport of freight or passengers, or both, for hire exclusively, when delivered to officers or agents of such vessels for use or consumption on such vessels. Provided, the Board shall have the authority to issue permits as referred to in this subsection and shall have the power and authority to promulgate rules and regulations to control the release of said spirituous liquors from United States customs bonded warehouses and the delivery of same to ocean-going vessels."

Sec. 3. G.S. 105-113.97 as the same appears in Volume 2D of the North Carolina General Statutes, is hereby amended on lines 1 and 7 after the word "beverages" by inserting the following: "and wine (fortified and unfortified)."

Sec. 4. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 13th day of June, 1975.

S. B. 565

CHAPTER 587

AN ACT TO PERMIT THE STATE TO BE INTERPLED IN TORT ACTIONS.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 1A of the North Carolina General Statutes is hereby amended by adding a new subsection (c) to Rule 14 of the "Rules of Civil Procedure" to read as follows:

"§ 1A-1, Rule 14(c). *Rule applicable to State of North Carolina.*— Notwithstanding the provisions of the Tort Claims Act, the State of North Carolina may be made a third party plaintiff under subsection (a) or a third party defendant under subsection (b) in any tort action. In such cases, the same rules governing liability and the limits of liability of the State and its agencies shall apply as is provided for in the Tort Claims Act."

Sec. 2. G.S. 1B-1 is hereby amended by adding a new subsection to be lettered subsection (i) and to read as follows:

"§ 1B-1(i). The provisions of this Article shall apply to tort claims against the State. However, in such cases, the same rules governing liability and the limits of liability shall apply to the State and its agencies as in cases heard before the Industrial Commission. The State's share in such cases shall not exceed the pro rata share based upon the maximum amount of liability under the Tort Claims Act."

Sec. 3. This act shall not affect pending litigation.

Sec. 4. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 13th day of June, 1975.

S. B. 714 **CHAPTER 588**

AN ACT TO ALLOW ASSISTANT CHIEFS OF POLICE AND FIRE DEPARTMENTS TO USE SPECIAL EQUIPMENT ON PRIVATELY OWNED VEHICLES WHILE ENGAGED IN THE PERFORMANCE OF THEIR OFFICIAL OR SEMI-OFFICIAL DUTIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-125(b) as the same appears in the 1965 replacement Volume 1C of the General Statutes is amended by deleting from line 12 "one assistant chief or equivalent" appearing after the words "the chief and" and before the words "of any police" and inserting in lieu thereof the words "assistant chiefs".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of June, 1975.

S. B. 737 **CHAPTER 589**

AN ACT TO ALLOW INJURED PERSONS TO SEEK THROUGH THE TORT CLAIMS ACT DAMAGES CAUSED BY SCHOOL BUS MECHANICAL DEFECTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-300.1, as the same appears in the 1974 Replacement of Volume 3C of the General Statutes, is amended by inserting between the words "any" and "alleged" on line 3 thereof, the following:

"alleged mechanical defects or other defects which may affect the safe operation of a public school bus or school transportation service vehicle resulting from an alleged negligent act of maintenance personnel or as a result of any".

Sec. 2. This act shall not affect any pending litigation.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of June, 1975.

S. B. 769 **CHAPTER 590**

AN ACT TO ESTABLISH IN THE DEPARTMENT OF ADMINISTRATION AN ADMINISTRATIVE BOARD FOR THE NORTH CAROLINA MARINE RESOURCES CENTER.

The General Assembly of North Carolina enacts:

Section 1. Chapter 143 of the North Carolina General Statutes is amended by adding a new Article 37B to read as follows:

"ARTICLE 37B.

"Marine Resources Center Administrative Board.

"§ 143-347.10. *Administrative board created.*—There is hereby created and established within the North Carolina Marine Science Council a board to be known as the North Carolina Marine Resources Center Administrative Board. Appointment to the North Carolina Marine Resources Center Administrative Board does not constitute appointment to or membership in the Marine Science Council.

"§ 143-347.11. *Membership; terms; expenses.*—(a) The Marine Resources Center Administrative Board shall consist of 16 voting members representing the following institutions, agencies and professions and appointed by the Governor from nominations submitted as follows:

(1) Four members of the North Carolina Marine Science Council nominated by the North Carolina Marine Science Council to serve as ex officio members of the board.

(2) The Secretary of the Department of Natural and Economic Resources and the Secretary of the Department of Administration or their designees shall serve as ex officio members of the board.

(3) One representative of the office of the University of North Carolina Sea Grant Program nominated by the Executive Director of the University of North Carolina Sea Grant Program.

(4) One representative who shall be actively engaged with and have experience in a marine based industry nominated by the Governor.

(5) One representative actively engaged in teaching classes in marine vocational education in the community college system nominated by the president of the North Carolina Department of Community Colleges.

(6) One representative actively engaged in marine vocational education at the high school level nominated by the Superintendent of Public Instruction.

(7) One representative of Dare County nominated by the Board of County Commissioners of Dare County.

(8) One representative of Carteret County nominated by the Board of County Commissioners of Carteret County.

(9) One representative of New Hanover County nominated by the Board of County Commissioners of New Hanover County.

(10) Three representatives of the University of North Carolina nominated by the President of the University of North Carolina upon the recommendation of the University Marine Science Council.

Membership on the Marine Resources Center Administrative Board shall become vacant automatically if a member ceases to qualify for nomination to his seat under the terms of this subsection. In the event of a vacancy occurring during a term of office the seat shall be filled in the same manner as the original appointment and shall be for the balance of the unexpired term.

(b) Membership on the Marine Resources Center Administrative Board and on the North Carolina Marine Science Council is hereby declared to be an office that may be held concurrently with other elective or appointive offices in addition to the maximum number of offices permitted to be held by one person under G.S. 128-1.1.

(c) The members shall serve staggered terms of office of six years. At the expiration of each member's term, the Governor shall reappoint or replace the member with a new member of like qualifications in accordance with the procedure established in subsection (a). The initial term shall be determined by the Governor in accordance with customary practice but four of the initial members shall be appointed for four-year terms and four for two-year terms.

(d) In the event of a vacancy arising otherwise than by expiration of term, the Governor shall appoint a successor of like qualifications in accordance with the procedure established in subsection (a), who shall then serve the remainder of his predecessor's term.

(e) The chairman of the board shall be designated by the Governor from among the members of the board to serve as chairman at the pleasure of the Governor.

(f) The chairman and members of the board shall serve without compensation for their services, but shall be entitled to reimbursement for the actual and necessary expenses incurred in the performance of their official duties to the same extent as allowed other State officers.

"§ 143-347.12. *Rules of procedure; meetings; cooperation of other agencies.*—The board shall adopt its own rules of procedure and shall meet at such times and in such places as it may deem necessary to carry out its functions. The board is authorized to secure directly from any executive department, agency, subdivision or independent instrumentality of State or local governments, any information it deems necessary to carry out its functions. Each department, agency, subdivision and independent instrumentality of State or local government is authorized to cooperate with the board, and, to the extent permitted by law, to furnish information to the board, as the board deems necessary, upon request made by the chairman.

"§ 143-347.13. *Duties and responsibilities.*—The board shall have the following duties and responsibilities:

(1) To adopt goals and objectives for the centers and continually to review and revise these goals and objectives.

(2) To review and submit to the Secretary of the Department of Administration for approval requests for use of the center facilities and to advise the Secretary of the Department of Administration on the most appropriate utilization consistent with the goals and objectives of the center and the current overall State plan provided by the Marine Science Council.

(3) To continually review and evaluate the types of projects and programs being carried out in the center facilities and to determine if the operation of the facilities is in compliance with the established goals and objectives.

(4) To recommend to the Secretary of the Department of Administration such policies and procedures needed to assure effective staff performance and proper liaison between center facilities in carrying out the overall purposes of the center programs.

(5) To report annually to the Marine Science Council on the overall center operation and solicit from the Marine Science Council suggestions for program improvement.

(6) To review center budget submissions to the Secretary of the Department of Administration for review and approval and inclusion in the budget request.

(7) To recruit, and recommend to the Secretary of the Department of Administration, candidates for the positions of program administrator and the three center administrators.

"§ 143-347.14. *Staff and financial support.*—The Secretary of the Department of Administration shall furnish such staff and financial support to the board as may be necessary to carry out its functions from funds appropriated or available for these purposes."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of June, 1975.

S. B. 778 **CHAPTER 591**

AN ACT TO EXEMPT FROM FRANCHISE AND INCOME TAXATION CERTAIN CONDOMINIUM HOUSING ASSOCIATIONS, HOMEOWNER ASSOCIATIONS AND COOPERATIVE HOUSING CORPORATIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-125 is amended by changing the colon at the end of the first paragraph thereof to a semicolon and by adding the following:

"nor to corporations or organizations, such as condominium associations, homeowner associations or cooperative housing corporations not organized for profit, the membership of which is limited to the owners or occupants of residential units in the condominium, housing development, or cooperative housing corporation, and operated exclusively for the management, operation, preservation, maintenance or landscaping of the common areas and facilities owned by such corporation or organization or its members situated contiguous to such houses, apartments or other dwellings or for the management, operation, preservation, maintenance and repair of such houses, apartments or other dwellings owned by the corporation or organization or its members, but only if no part of the net earnings of such corporation or organization inures (other than through the performance of related services for the members of such corporation or organization) to the benefit of any member of such corporation or organization or other person:".

Sec. 2. G.S. 105-130.11 is amended by:

(a) Adding the words "and (c)" following the words "subsection (b)" in the first paragraph of subsection (a);

(b) Adding a new subdivision to be designated as subdivision (11) at the end of subsection (a), to read as follows:

"(11) Corporations or organizations, such as condominium associations, homeowner associations, or cooperative housing corporations not organized for profit, the membership of which is limited to the owners or occupants of residential units in the condominium, housing development or cooperative housing corporation, and operated exclusively for the management, operation, preservation, maintenance or landscaping of the common areas and facilities owned by such corporation or organization or its members situated contiguous to such houses, apartments or other dwellings or for the management, operation, preservation, maintenance and repair of such houses, apartments or other dwellings owned by the corporation or organization or its members, but only if no part of the net earnings of such corporation or organization inures (other than through the performance of related services for the members of such corporation or organization) to the benefit of any member of such corporation or organization or other person."

(c) Adding at the end thereof a new subsection to be designated as subsection (c), to read as follows:

"(c) Organizations described in subdivision (11) of subsection (a) of this section shall be subject to the tax provided for in G.S. 105-130.3 on its unrelated business income. For purposes of this subsection the term 'unrelated business income' means gross income (excluding any membership income), less the deductions allowed by this Article which are directly connected with the production of such unrelated business income. The term 'membership income' means the gross income from assessments, fees, charges, or similar amounts

received from members of the organization for expenditure in the preservation, maintenance, and management of the common areas and facilities of or the residential units in the condominium or housing development."

Sec. 3. This act shall apply to taxable years beginning on and after January 1, 1975.

In the General Assembly read three times and ratified, this the 13th day of June, 1975.

S. B. 784 CHAPTER 592

AN ACT TO MAKE TECHNICAL AMENDMENTS IN THE LAW RELATING TO PRIVATE PROTECTIVE SERVICES, CHAPTER 74B.

The General Assembly of North Carolina enacts:

Section 1. G.S. 74B-10 is hereby amended by adding thereto a new subsection (f) which shall read as follows:

"Upon notification of approval by the Private Protective Services Board, applicant must within 60 days obtain the license applied for or his application shall be void."

Sec. 2. G.S. 74B-11(b) of Chapter 74B as the same appears in the 1974 Cumulative Supplement to Volume 2C of the General Statutes is hereby amended by deleting therefrom at lines 6 through 8 the words "A copy of the license shall at all times be posted in a conspicuous place at all branch offices of the licensee."

Sec. 3. G.S. 74B-11 is hereby amended by adding thereto a new subsection (d) which shall read as follows:

"The operator or manager of any branch office shall be properly licensed and his license shall be posted at all times in a conspicuous place in the office."

Sec. 4. G.S. 74B-11 is hereby amended by adding thereto a new subsection (e) which shall read as follows:

"A license granted under the provisions of this Chapter may be renewed by the Private Protective Services Board upon notification by licensee to the administrator of intended renewal and the payment of the proper fee specified in G.S. 74B-11(c). The renewal shall be finalized before the expiration date of the license unless the renewal is accompanied by a late renewal fee of one hundred dollars ($100.00). In no event will renewal be granted more than three months after date of expiration of a license. No person, firm, company, partnership or corporation shall carry on any business subject to this Chapter during any period which may exist between the date of expiration of a license and the renewal thereof."

Sec. 5. G.S. 74B-13 is hereby amended by adding thereto a new subsection (c) which shall read as follows:

"The administrator shall be notified in writing of the termination of any employee registered under this Chapter within 30 days after said termination."

Sec. 6. G.S. 74B-15(e) is hereby amended by deleting therefrom at lines 3 and 4 the words "The operator or manager of any branch office shall be a licensed detective."

Sec. 7. G.S. 74B-16 is hereby repealed; a new Section 74B-16 is hereby enacted in lieu thereof and shall read as follows:

"§ 74B-16. *Penal provision.*—Any person who violates any provision of this Chapter or any rule or regulation promulgated pursuant thereto shall be guilty

of a misdemeanor and shall upon conviction be fined or imprisoned or both at the discretion of the court."

Sec. 8. G.S. 74B-4(a) is hereby amended by deleting therefrom on line 5 the word "chairman".

Sec. 9. G.S. 74B-4(a) is hereby further amended by deleting therefrom the first sentence of the second paragraph and substituting in lieu thereof the following words:

"The chairman of the board shall be chosen by the members of the board, and shall serve for a term of one year, and shall be eligible for reelection."

Sec. 10. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 13th day of June, 1975.

S. B. 824 CHAPTER 593

AN ACT TO MAKE IT UNLAWFUL TO IMPEDE THE STEADY FLOW OF TRAFFIC ON DUAL LANE HIGHWAYS.

Whereas, it being declared public policy of this State that the steady flow of motor vehicle traffic on dual lane highways is essential to highway safety and to the conservation of energy; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-146 is hereby amended by adding a new subsection thereto to be designated subsection (e) and to read as follows:

"(e) Notwithstanding any other provisions of this section, when appropriate signs have been posted, it shall be unlawful for any person to operate a motor vehicle over and upon the inside lane, next to the median of any dual lane highway at a speed less than the posted speed limit when the operation of said motor vehicle over and upon said inside lane shall impede the steady flow of traffic except when preparing for a left turn. 'Appropriate signs' as used herein shall be construed as including 'Slower Traffic Keep Right' or designations of similar import. Any person violating the provisions of this section shall be guilty of a misdemeanor punishable as provided in G.S. 20-176."

Sec. 2. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 13th day of June, 1975.

S. B. 880 CHAPTER 594

AN ACT RELATING TO THE GAME OF BINGO IN FRANKLIN COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It shall be lawful to play or operate the game of "bingo" in Franklin County in connection with fairs or exhibitions sponsored by civic, charitable, or trade associations of the county.

Sec. 2. This act becomes effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of June, 1975.

H. B. 839 **CHAPTER 595**

AN ACT TO ADD WAKE COUNTY TO THE PROVISIONS OF THE GENERAL STATUTES RELATING TO ATTACHMENT OR GARNISHMENT AND LIEN FOR AMBULANCE SERVICE IN CERTAIN COUNTIES, AND TO CORRECT A CROSS-REFERENCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 44-51.8, as the same appears in the 1974 Cumulative Supplement to Volume 2A of the General Statutes, is hereby amended by adding the word "Wake" after the word "Vance" and before the word "Warren".

Sec. 2. G.S. 44-51.4, as the same appears in the 1974 Cumulative Supplement to Volume 2A of the General Statutes, is hereby amended by deleting the words and figures "G.S. 105-385(d)" in the last line thereof and by substituting therefor "G.S. 105-368".

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of June, 1975.

H. B. 881 **CHAPTER 596**

AN ACT TO ANNEX CERTAIN AREAS TO THE TOWN OF ABERDEEN.

Whereas, the Town of Aberdeen desires to annex certain areas into the town but due to the nature of the areas they do not qualify for annexation under general law; and

Whereas, the town anticipates receiving a grant for the purpose of providing water and sewer into the areas to be annexed; and

Whereas, the town is now prepared to furnish police protection, garbage collection and all other services to which citizens of the town are entitled if the areas are annexed; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The areas hereinafter described, and the property and inhabitants therein, are hereby annexed into the Town of Aberdeen.

Area 1. BEGINNING at a point in the existing corporate limit line, said point being the point of intersection of the northern right of way line of Johnson Street and the western right of way line of Poplar Street; thence with the existing corporate limit line, said line being the western right of way line of Poplar Street North 27 degrees 35 minutes East 100 feet to a point, said point being a corner of the existing corporate limit line in the Western right of way line of Poplar Street; thence in a southeasterly direction crossing Poplar Street 1070 feet, more or less, to the northeast corner of Lot No. 39 in the "Winford Downs Subdivision" as recorded in Plat Book 9 page 77, said point also being in the western right or way line of the Seaboard Coast Line Railroad; thence in a southwesterly direction along the eastern property line of Lots 36, 37, 38 and 39 of said "Winford Downs Subdivision" and the western right of way line of the Seaboard Coast Line Railroad, 624 feet, to a point, said point being the southeast corner of Lot No. 36 in the "Winford Downs Subdivision"; thence in a northwesterly direction along the southern property line of Lot No. 36, 75 feet, to a point, said point being the northeast corner of Lot No. 35 in the southern property line of Lot No. 36 and 200 feet East of the eastern right of way line of Eastview Drive; thence in a southwesterly direction 1455.5 feet, along the

eastern property line of Lots Nos. 30, 31, 32, 33, 34, 35 and the western property line of Lot. No. 40 crossing Fifth Street as shown on plat of "Winford Downs Subdivision" in plat book 9, page 66 and crossing through Lot Nos. 95, 96, 97, 98, 99 and 100 of the "Ridgeview Subdivision" as recorded in plat book 7, page 15 also crossing Fourth Street to a point in the northern property line of Lot No. 94 and the southern property line of Lot No. 95, said point being, 200 feet East of the eastern right of way line of Eastview Drive; thence in a northwesterly direction 460 feet, crossing Eastview Drive to a point, said point being the common corner between Lots 51, 52, 70 and 71 of the "Ridgeview Subdivision"; thence in a southwesterly direction 982.5 feet, crossing Second and Third Streets and along the common line between Lots 44 through 51 inclusive and Lots 63 through 70 inclusive to a point the common corner of Lots 43, 44, 62 & 63 of the "Ridgeview Subdivision"; thence in a northwesterly direction 460 feet, crossing Crest Drive to a point, said point being the common corner between Lot 5, 6, 24 & 25 of the "Ridgeview Subdivision"; thence in a southwesterly direction 1225 feet, more or less, crossing First Street and along the common line between Lot 1 through 5 inclusive and Lots 20, 21, 22, 23 and 24 also the eastern property line of Lots 77 and 78 of the "Ridgeview Subdivision" to a point, said point being in the northern right of way line of Grape Avenue, said point also being a corner of the existing corporate limit line; thence with the northern right of way line of Grape Avenue in a westerly direction 239.55 feet, to a point, said point being the intersection of the northern right of way line of Grape Avenue and the eastern right of way line of Poplar Street; thence with the eastern right of way line of Poplar Street in a southwesterly direction 208.05 feet, to a point in the eastern right of way line of Poplar Street said point being the common corner between Lots 61 and 62 as shown on the map of "Revision of Plainview Subdivision" as recorded in book 187, page 485; thence in a southeasterly direction, 360.30 feet along the common property line between Lot Nos. 61, 62, 65 and 66, to a point, said point being the common corner between Lots 65 and 66 in the western right of way line of Aspen Street; thence with the western right of way line of Aspen Street in a southwesterly direction 265 feet, to a point, said point being the point of intersection of the western right of way line of Aspen Street and the northern right of way line of Cedar Avenue; thence with the northern right of way line of Cedar Avenue, in a northwesterly direction crossing Poplar Street, 410 feet, to a point, said point being the point of intersection with the northern right of way line of Cedar Avenue extended and the western right of way line of Poplar Street; thence with the western right of way line of Poplar Street crossing Pear Street in a southwesterly direction 770 feet, to a point, said point being in the western right of way line of Poplar Street; thence in a northwesterly direction 230 feet, to a point; thence in a southwesterly direction 100 feet, to a point; thence in a southeasterly direction 230 feet, to a point, said point being in the western right of way line of Poplar Street; thence with the western right of way line of Poplar Street in a southwesterly direction 90 feet more or less to a point that is 100 feet northerly from Peach Avenue; thence on a line that is 100 feet North of and parallel to Peach Avenue North 47 degrees 07 minutes 50 seconds West 460.0 feet to a point in the eastern line of Holly Street; thence with the eastern line of said Holly Street North 43 degrees 05 minutes 10 seconds East 940 feet to a point, the southeastern intersection of Cedar Avenue and Holly Street; thence crossing Cedar Avenue North 10 degrees 19 minutes 10 seconds

East 80.00 feet to a point, said point being the northeast intersection of Cedar Avenue and Marse Henry Page Road; thence with the eastern right of way line of Marse Henry Page Road North 27 degrees 22 minutes 10 seconds East 102.42 feet, to a point in the eastern right of way line of Marse Henry Page Road; thence crossing Marse Henry Page Road North 58 degrees 25 minutes 50 seconds West 50 feet, to a point in the western right of way line of Marse Henry Page Road, said point being the common corner between Lots 14 and 15 Block "L", Section 1 Forest Hills; thence with the western right of way of Marse Henry Page Road North 27 degrees 22 minutes 10 seconds East 225 feet, more or less, to a point, said point being the intersection of the western right of way line of Marse Henry Page Road extended and the southern right of way line of Bonnie Brook Road extended; thence with the southern right of way line of Bonnie Brook Road South 64 degrees 43 minutes East 245.13 feet, to a point, said point being the point of intersection of the southern right of way line of Bonnie Brook Road with the eastern right of way line of U.S. Highway No. 1-15-211-501 said point being the northwest corner of Lot No. 14 Block L Section 1 Forest Hills; thence with the eastern right of way line of U.S. Highway No. 1-15-211-501 South 31 degrees 32 minutes West 140.00 feet to a point in the existing corporate limit line, said point being the common corner of Lots 13 and 14 Block L Section 1 Forest Hills in the eastern right of way line of U.S. Highway No. 1-15-211-501; thence with the existing corporate limits line and crossing U.S. Highway No. 1-15-211-501 North 38 degrees 24 minutes 20 seconds West 106.45 feet to a point in the western right of way line of U.S. Highway No. 1-15-211-501, said point also being the southeast corner of Lot No. 2 Block C Section 1 Forest Hills; thence with the western right of way line of U.S. Highway No. 1-15-211-501 North 31 degrees 32 minutes East 110.00 feet to a point, said point being the northeast corner of Lot No. 2 Block C Section 1 Forest Hills; thence in a northwesterly direction 18.3 feet to a point; thence North 58 degrees 28 minutes West 24.63 feet to a point, said point being the southeast corner of Lot No. 3 Block C Section 1 Forest Hills in the western right of way line of a Private Drive as shown on the map of Section 1 Forest Hills; thence with the western right of way line of said Private Drive North 31 degrees 32 minutes East 180.00 feet to a point, said point being the common corner of Lots 4 and 5 Block C Section 1 Forest Hills in the western right of way line of said Private Drive; thence with the common lot line between Lots 4 and 5 North 58 degrees 28 minutes West 185.00 feet to a point, said point being the common corner of Lots 4, 5 and 7 Block C Section 1 Forest Hills; thence North 31 degrees 32 minutes East 200 feet more or less to a point in the southern right of way line of Going To The Sun Road; thence with the southern right of way line of Going To The Sun Road in a northwesterly direction 175 feet more or less to a point in the existing corporate limit line, said point being the intersection of the southern right of way line of Going To The Sun Road extended and the eastern right of way line of Bion Butler Road extended; thence with the existing corporate limit line and crossing Going To The Sun Road North 31 degrees 32 minutes 10 seconds East 60.00 feet to a corner of the existing corporate limits; thence with the northern right of way line of Going To The Sun Road in a southeastern direction 369.53 feet more or less to a point, said point being the intersection of the northern right of way of Going To The Sun Road with the western right of way line of Private Drive as shown on the map of Section 1 Forest Hills; thence with the western right of way line of said

Private Drive North 31 degrees 32 minutes East 290.00 feet to a point in the existing corporate limit line; thence with the existing corporate limit line South 58 degrees 27 minutes 50 seconds East 40.00 feet to a point, said point being the corner of the existing corporate limits; thence with the existing corporate limit line North 31 degrees 32 minutes 10 seconds East 529.60 feet to a point, a corner of the existing corporate limits, said point also being the northeast corner of Lot No. 3 Block F Section 1 Forest Hills; thence with the existing corporate limit line and crossing U.S. Highway No. 1-15-211-501 South 58 degrees 27 minutes 50 seconds East 344.35 feet to a point, a corner of the existing corporate limits, said point being the common corner of Lots 1 and 2 Block I Section 1 Forest Hills; thence along the rear lot line of Lots 2, 3 and 4 Block I Section 1 Forest Hills South 27 degrees 14 minutes 10 seconds West 300.78 feet to a point, said point being the southeast corner of Lot No. 4 Block I Section 1 Forest Hills; thence with the southern property line of Lot 4 the following courses and distances, North 58 degrees 28 minutes West 98.9 feet, North 31 degrees 32 minutes East 20 feet, North 58 degrees 28 minutes West 30 feet, South 31 degrees 32 minutes West 20 feet, North 58 degrees 28 minutes West 138 feet, to a point in the eastern right of way line of U.S. Highway 1-15-211-501; thence with the eastern right of way line of U.S. Highway 1-15-211-501 South 31 degrees 32 minutes 10 seconds West 970 feet, more or less to a point, said point being the intersection of the eastern right of way line of U.S. Highway 1-15-211-501 with the northern right of way line of Bonnie Brook Road; thence with the northern right of way line of Bonnie Brook Road South 64 degrees 43 minutes West 235 feet more or less, to a point, said point being the intersection of the western right of way line of Marse Henry Page Road extended and the northern right of way line of Bonnie Brook Road extended; thence with the northern right of way line of Bonnie Brook Road South 62 degrees 38 minutes East 245 feet, more or less, to a point, said point being the common corner between Lots 13 and 14 Block J Section 1 Forest Hills in the northern right of way line of Bonnie Brook Road; thence with the common line between Lots 13 and 14 North 27 degrees 22 minutes East 160 feet, to a point, said point being the common corner between Lots 4, 5, 13 and 14 Block J Section 1 Forest Hills; thence with the common property line between Lots 5 and 13, South 62 degrees 38 minutes East, 80 feet, to a point, said point being the common corner between Lots 5, 6, 12 and 13 Block J Section 1 Forest Hills; thence with the common property line between Lots 12 and 13 South 27 degrees 22 minutes West 160 feet, to a point in the northern right of way line of Bonnie Brook Road, said point being the common corner between Lots 12 and 13; thence with the northern right of way line of Bonnie Brook Road South 62 degrees 38 minutes East 160 feet, to a point, the common corner between Lots 10 and 11 Block J Section 1 Forest Hills; thence with the common property line between Lots 10 and 11 North 27 degrees 22 minutes East 120 feet, to a point, the common corner of Lots 9, 10 and 11; thence with the common property line between Lots 9 and 11 North 17 degrees 38 minutes West 48.8 feet, to a point, the common corner between Lots 7, 9 and 11 Block J Section 1 Forest Hills; thence along the common property line between Lots 7 and 11 North 62 degrees 38 minutes West 52 feet, to a point, said point being the common corner of Lots 6, 7, 11 and 12 Block J Section 1 Forest Hills; thence along the common property line between Lots 6 and 7 North 27 degrees 22 minutes East 160 feet, to a point, said point being the common corner between Lots 6 and 7 in the

southern right of way line of Marse Henry Page Road; thence with the southern right of way line of Marse Henry Page Road North 62 degrees 38 minutes West 35 feet, to a point; thence crossing Marse Henry Page Road and along the common property line between Lots 8 and 9, Block I, Section 1, Forest Hills, North 27 degrees 22 minutes East 203.62 feet, to a point, said point being the common corner between Lots 8 and 9; thence along the northern property line of Lots 6, 7 and 8, Block I, Section 1, Forest Hills, North 62 degrees 34 minutes West 270 feet, more or less, to a point in the northern property line of Lot 5; thence North 27 degrees 14 minutes East 909.18 feet, to a point, said point being the northeast corner of Lot 1 Block I Section 1 Forest Hills in the southern property line of Lot 3, "Dogwood Heights"; thence along the southern property line of Lots 3, 4, 5, 6, 7 and 8 of Dogwood Heights, North 88 degrees 52 minutes 10 seconds East 559.50 feet, to a point, said point being the southeast corner of Lot 8 in the western right of way line of Poplar Street; thence with the western right of way line of Poplar Street North 27 degrees 22 minutes 10 seconds East 197.50 feet, to a point, said point being the point of intersection of the western right of way line of Poplar Street and the southern right of way line of Dogwood Drive; thence with the southern right of way line of Dogwood Drive, South 88 degrees 52 minutes 10 seconds West 285.50 feet, to a point, said point being the common corner between Lots 6 and 7 of Dogwood Heights; thence crossing Dogwood Drive and along the common property line between Lots 14 and 15 of Dogwood Heights North 1 degree 7 minutes 50 seconds West 226 feet, to a point, said point being the common corner between Lots 14 and 15; thence North 58 degrees 27 minutes 50 seconds West 123.44 feet, to a point said point being 225 feet East of and at a right angle to the eastern right of way line of U. S. Highway 1-15-211-501; thence parallel too and 225 feet East of the eastern right of way line of U. S. Highway 1-15-211-501 North 31 degrees 32 minutes 10 seconds East 871.33 feet, to a point; thence South 58 degrees 27 minutes 50 seconds East 413.48 feet, to a point, said point being in the western right of way line of Poplar Street thence with the Western right of way line of Poplar Street North 27 degrees 35 minutes East 681.91 feet, to a point; thence North 62 degrees 25 minutes West 340.00 feet and crossing Washington Avenue to a point in the western right of way line of Washington Avenue; thence with the western right of way line of Washington Avenue and crossing Johnson Street North 27 degrees 35 minutes East 215 feet, to a point; thence crossing Washington Avenue South 62 degrees 25 minutes East 190 feet to a point; thence South 27 degrees 35 minutes West 50 feet, to a point in the northern right of way line of Johnson Street; thence with the northern right of way line of Johnson Street South 62 degrees 25 minutes East 150 feet to the point of BEGINNING.

Area 2. BEGINNING at a point in the existing corporate limit line, said point being 200 feet North of and at a right angle to the Northern right of way line of Bethesda Avenue; thence in an easterly direction 200 feet from and parallel to the Northern right of way line of Bethesda Avenue 1350 feet, more or less to a point, said point being 200 feet north of and at a right angle to the Northern right of way line of Bethesda Avenue and 200 feet East of and at a right angle to Old Pee Dee Road; thence in a Northerly direction 200 feet and parallel to the Eastern right of way line of Old Pee Dee Road 1090 feet more or less to a point in the Northern right of way line of South Street (N.C. Highway No. 211); thence along the Northern right of way line of South Street (N.C. Highway No.

211) in a Westerly direction 1800 feet, more or less to a point in said Northern right of way line of South Street (N.C. Highway No. 211); thence in a Northerly direction 240 feet, more or less to a point; thence in a Westerly direction 250 feet, more or less to a point in the existing corporate limit line, said point being 150 feet, more or less, South of the Southern right of way line of Main Street; thence along the existing corporate limit line in a Northeasterly direction 1525 feet, more or less, to the point of BEGINNING.

Sec. 2. From and after the effective date of this act, the territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in such municipality and shall be entitled to the same privileges and benefits as other parts of such municipality. The town shall provide services to the area annexed by this act according to the timetable set out in G.S. 160A-35(3). The newly annexed territory shall be subject to municipal taxes levied for the fiscal year following the date of annexation. If the effective date of annexation falls between January 1 and June 30, the municipality shall, for purposes of levying taxes for the fiscal year beginning July 1 following the date of annexation, obtain from the county a record of property in the area being annexed which was listed for taxation as of said January 1. If the effective date of annexation falls between June 1 and June 30, and the effective date of the privilege license tax ordinance of the annexing municipality is June 1, then businesses in the area to be annexed shall be liable for taxes imposed in such ordinance from and after the effective date of annexation.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of June, 1975.

H. B. 1083 CHAPTER 597

AN ACT TO SPECIFICALLY AUTHORIZE WILDLIFE RESOURCES COMMISSION OFFICERS TO ENFORCE THE PROVISIONS OF CHAPTER 1319 OF THE 1973 SESSION LAWS PROHIBITING HUNTING FROM HIGHWAYS IN ANSON, DURHAM, ORANGE, AND PERSON COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 1319 of the 1973 Session (Second Session, 1974) Laws is hereby amended by inserting a new Section, to be designated as Section 4-1/2, immediately following Section 4 of said act to read as follows:

"Sec. 4-1/2. All law enforcement officers, including enforcement officers of the Wildlife Resources Commission, shall have jurisdiction to enforce the provision of this act."

Sec. 2. The provisions of this act shall not apply to Richmond County.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of June, 1975.

H. B. 1133 **CHAPTER 598**

AN ACT TO PROVIDE SEMIANNUAL AUDITS OF THE PITTSBORO ABC BOARD.

The General Assembly of North Carolina enacts:

Section 1. Section 9 of Chapter 365 of the 1967 Session Laws is hereby amended on line 6 by deleting the word "quarterly" and inserting in lieu thereof the word "semiannually".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of June, 1975.

H. B. 475 **CHAPTER 599**

AN ACT TO PROHIBIT DISCRIMINATION IN PROVISIONS OF HEALTH INSURANCE TO ANY PERSON POSSESSING THE SICKLE CELL TRAIT.

The General Assembly of North Carolina enacts:

Section 1. Article 26 of Chapter 58 of the General Statutes of North Carolina is hereby amended by the addition of a new section thereto which shall be designated as G.S. 58-251.6 and which shall read as follows:

"§ 58-251.6. *Policies to be issued to any person possessing the Sickle Cell Trait or Hemoglobin C Trait.*—No insurance company licensed in this State pursuant to the provisions of this Chapter shall refuse to issue or deliver any policy (regardless of whether any of such policies shall be defined as individual, family, group, blanket, franchise, industrial or otherwise) which is currently being issued for delivery in this State, and which affords benefits or coverage for any medical treatment or service authorized or permitted to be furnished by a hospital, clinic, family health plan, neighborhood health plan, health maintenance organization, physician, physician's assistant, nurse practitioner or any medical service facility or personnel by reason of the fact that the person to be insured possesses Sickle Cell Trait or Hemoglobin C Trait, nor shall any such policy issued and delivered in this State carry a higher premium rate or charge by reason of the fact that the person to be insured possesses said trait."

Sec. 2. Chapter 57 of the General Statutes of North Carolina is hereby amended by the addition of a new section thereto which shall be designated as G.S. 57-7.1 and which shall read as follows:

"§ 57-7.1. *Contracts to cover any person possessing the Sickle Cell Trait or Hemoglobin C Trait.*—No hospital, medical, dental, or any health service governed by this Chapter shall refuse to issue or deliver any individual, or group hospital, dental, medical, or health service contract in this State which it is currently issuing for delivery in this State; and which affords benefits or coverage for any medical treatment or service authorized or permitted to be furnished by a hospital, clinic, family health clinic, neighborhood health clinic, health maintenance organization, physician, physician's assistant, nurse practitioner or any medical service facility or personnel on account of the fact that the person who is to be insured possesses Sickle Cell Trait or Hemoglobin C Trait; nor shall any such policy issued and delivered in this State carry a higher premium rate or charge on account of the fact that the person who is to be insured possesses Sickle Cell Trait."

Sec. 3. This act shall become effective July 1, 1975, and shall apply to policies of insurance delivered or issued for delivery in this State on and after July 1, 1975.

In the General Assembly read three times and ratified, this the 16th day of June, 1975.

H. B. 476 CHAPTER 600

AN ACT TO PROHIBIT DISCRIMINATION IN PROVISIONS OF LIFE INSURANCE TO ANY PERSON POSSESSING THE SICKLE CELL TRAIT.

The General Assembly of North Carolina enacts:

Section 1. Article 22 of Chapter 58 of the General Statutes of North Carolina is hereby amended by the addition of a new section thereto which shall be designated as G.S. 58-195.5 and which shall read as follows:

"§ 58-195.5. *Policies to be issued to any person possessing the Sickle Cell Trait or Hemoglobin C Trait.*—No insurance company licensed in this State pursuant to the provisions of Chapter 58 shall refuse to issue or deliver any policy of life insurance authorized thereunder solely by reason of the fact that the person to be insured possesses Sickle Cell Trait or Hemoglobin C Trait; nor shall any such policy issued and delivered in this State carry a higher premium rate or charge by reason of the fact that the person to be insured possesses said traits. The term 'sickle cell trait' is defined as the condition wherein the major natural hemoglobin components present in the blood of the individual are hemoglobin A (normal) and hemoglobin S (sickle hemoglobin) as defined by standard chemical and physical analytic techniques, including electrophoresis; and the proportion of hemoglobin A is greater than the proportion of hemoglobin S or one natural parent of the individual is shown to have only normal hemoglobin components (hemoglobin A, hemoglobin A2 , hemoglobin F) in the normal proportions by standard chemical and physical analytic tests. The term 'hemoglobin C trait' is defined as the condition wherein the major natural hemoglobin components present in the blood of the individual are hemoglobin A (normal) and hemoglobin C as defined by standard chemical and physical analytic techniques, including electrophoresis; and the proportion of hemoglobin A is greater than the proportion of hemoglobin C or one natural parent of the individual is shown to have only normal hemoglobin components (hemoglobin A, hemoglobin A2, hemoglobin F) in the normal proportions by standard chemical and physical analytic tests."

Sec. 2. This act shall become effective July 1, 1975, and shall apply to policies of insurance delivered or issued for delivery in this State on and after July 1, 1975.

In the General Assembly read three times and ratified, this the 16th day of June, 1975.

H. B. 561 **CHAPTER 601**

AN ACT TO PROVIDE THAT CONVEYANCES USED TO TRANSPORT UNLAWFUL DRUGS SHALL NOT BE SUBJECT TO FORFEITURE WHERE CONVEYANCE WAS USED WITHOUT OWNER'S KNOWLEDGE OR CONSENT.

The General Assembly of North Carolina enacts:

Section 1. Article 5 of Chapter 90 (Controlled Substances Act) of the General Statutes is hereby amended by adding a new section to be numbered G.S. 90-112.1 and to read as follows:

"§ 90-112.1. *Remission or mitigation of forfeitures; possession pending trial.*—(a) Whenever, in any proceeding in court for a forfeiture, under G.S. 90-112 of any conveyance seized for a violation of this Article the court shall have exclusive jurisdiction to continue, remit or mitigate the forfeiture.

(b) In any such proceeding the court shall not allow the claim of any claimant for remission or mitigation unless and until he proves (1) that he has an interest in such conveyance, as owner or otherwise, which he acquired in good faith; (2) that he had no knowledge, or reason to believe, that it was being or would be used in the violation of laws of this State relating to controlled substances; (3) that his interest is in an amount in excess or equal to the fair market value of such conveyance.

(c) If the court, in its discretion, allows the remission or mitigation the conveyance shall be returned to the claimant; and should there be joint request of any two or more claimants, whose claims are allowed, the court shall order the return of the conveyance to such of the joint requesting claimants as have the prior claim on lien. Such return shall be made only upon payment of all expenses incident to the seizure and forfeiture incurred by the State. In all other cases the court shall order disposition of such conveyance as provided in G.S. 90-112, and after satisfaction of the expenses of the sale, and such claims as may be approved by the court, the funds shall be paid to the treasurer or proper officer authorized to receive fines and forfeitures to be used for the school fund of the county in which said vehicle was seized.

(d) If the court should determine that the conveyance should be held for purposes of evidence, then it may order the vehicle to be held until the case is heard."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1975.

H. B. 722 **CHAPTER 602**

AN ACT TO RECONSTITUTE THE NORTH CAROLINA CAPITAL PLANNING COMMISSION.

Whereas, the General Assembly is called upon at each session to appropriate large sums of money for the location and construction of buildings so that up-to-date building requirements are maintained for State governmental agencies in the City of Raleigh and its environs; and

Whereas, it is necessary to schedule future appropriation requests in order to formulate long-range capital improvements as required for State central

governmental agencies in the City of Raleigh and its environs and to recommend acquisition of land as required for these improvements; and

Whereas, only two members of the General Assembly now sit upon the North Carolina Capital Planning Commission; and

Whereas, it is the consensus of the General Assembly that it should have more involvement with the commission's long-range development of these capital improvement programs; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 129-31 is hereby rewritten to read as follows:

"§ 129-31. *Commission created; membership; secretary.*—There is hereby created the North Carolina Capital Planning Commission which shall consist of the following: The Governor of North Carolina, who shall serve as chairman; all members of the Council of State including the Lieutenant Governor, who shall serve as vice-chairman; the Speaker, and four members of the North Carolina House of Representatives, and four members of the North Carolina Senate; and a representative of the City of Raleigh to be designated by the City Council of Raleigh to serve a two-year term to expire at the same date city council members' terms expire. The Lieutenant Governor shall appoint the four members of the Senate on or before July 1, 1975. The first year only, two members shall be appointed to two-year terms and two members shall be appointed to four-year terms, or until their successors are appointed and qualify. Thereafter, all members shall be appointed to four-year terms. The Speaker of the House of Representatives shall appoint the four members of the House on or before July 1, 1975. The first year only, two members shall be appointed to two-year terms and two members shall be appointed to four-year terms, or until their successors are appointed and qualify. Thereafter, all members shall be appointed to four-year terms. Public officers who are made members of the commission shall be deemed to serve ex officio. The Secretary of the Department of Administration shall serve as secretary to the commission."

Sec. 2. Section (5) of G.S. 129-33 is amended by inserting at the end thereof the words "on or before April 1."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1975.

H. B. 814 CHAPTER 603

AN ACT TO AMEND CHAPTER 58, ARTICLE 22, OF THE GENERAL STATUTES RELATING TO RESERVE VALUATION AND NONFORFEITURE BENEFITS OF LIFE INSURANCE POLICIES.

The General Assembly of North Carolina enacts:

Section 1. Subsection (c) of G.S. 58-201.1, as the same appears in the 1965 Replacement Volume 2B, is hereby amended by rewriting the same to read as follows:

"(c)(1) Except as otherwise provided in subdivision (3) of this subsection, the minimum standard for the valuation of all such policies and contracts issued prior to the operative date of G.S. 58-201.2 shall be that provided by the laws in effect immediately prior to such date.

(2) Except as otherwise provided in subdivision (3) of this subsection, the minimum standards for the valuation of all such policies and contracts issued on or after the operative date of G.S. 58-201.2 shall be the commissioner's reserve valuation method defined in subsection (d), three and one-half percent (3-1/2%) interest, or in the case of policies and contracts, other than annuity and pure endowment contracts, issued on or after July 1, 1975, and prior to January 1, 1986, four percent (4%) interest, and the following tables:

(i) For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies, the commissioner's 1941 Standard Ordinary Mortality Table for such policies issued prior to the operative date of subdivision (e)(2) of G.S. 58-201.2, and the commissioner's 1958 Standard Ordinary Mortality Table for such policies issued on or after such operative date; provided that for any category of such policies issued on female risks all modified net premiums and present values referred to in this section may be calculated according to an age not more than three years younger than the actual age of the insured.

(ii) For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies the 1941 Standard Industrial Mortality Table for such policies issued prior to the operative date of subdivision (e)(3) of G.S. 58-201.2, and the commissioner's 1961 Standard Industrial Mortality Table for such policies issued on or after such operative date.

(iii) For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies—the 1937 Standard Annuity Mortality Table or, at the option of the company, the Annuity Mortality Table for 1949, Ultimate, or any modification of either of these tables approved by the commissioner.

(iv) For group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies—the Group Annuity Mortality Table for 1951, any modification of such table approved by the commissioner, or, at the option of the company, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts.

(v) For total and permanent disability benefits in or supplementary to ordinary policies or contracts—for policies or contracts issued on or after January 1, 1966, the tables of Period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 Disability Study of the Society of Actuaries, with due regard to the type of benefit; for policies or contracts issued on or after January 1, 1961, and prior to January 1, 1966, either such tables or, at the option of the company, the Class (3) Disability Table (1926); and for policies issued prior to January 1, 1961, the Class (3) Disability Table (1926). Any such table shall, for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(vi) For accidental death benefits in or supplementary to policies—for policies issued on or after January 1, 1966, the 1959 Accidental Death Benefits Table; for policies issued on or after January 1, 1961, and prior to January 1, 1966, either such table or, at the option of the company, the Inter-Company Double Indemnity Mortality Table; and for policies

issued prior to January 1, 1961, the Inter-Company Double Indemnity Mortality Table. Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(vii) For group life insurance, life insurance issued on the substandard basis and other special benefits, such tables as may be approved by the commissioner.

(3) The minimum standard for the valuation of all individual annuity and pure endowment contracts issued on or after the operative date of this subdivision (3), as defined herein, and for all annuities and pure endowments purchased on or after such operative date under group annuity and pure endowment contracts, shall be the commissioner's reserve valuation method defined in subsection (d) and the following tables and interest rates:

(i) For individual annuity and pure endowment contracts issued prior to January 1, 1986, excluding any disability and accidental death benefits in such contracts—the 1971 Individual Annuity Mortality Table, or any modification of this table approved by the commissioner, and six percent (6%) interest for single premium immediate annuity contracts, and four percent (4%) interest for all other individual annuity and pure endowment contracts.

(ii) For individual annuity and pure endowment contracts issued on or after January 1, 1986, excluding any disability and accidental death benefits in such contracts—the 1971 Individual Annuity Mortality Table, or any modification of this table approved by the commissioner, and three and one-half percent (3-1/2%) interest.

(iii) For all annuities and pure endowments purchased prior to January 1, 1986, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts—the 1971 Group Annuity Mortality Table, or any modification of this table approved by the commissioner, and six percent (6%) interest.

(iv) For all annuities and pure endowments purchased on or after January 1, 1986, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts—the 1971 Group Annuity Mortality Table, or any modification of this table approved by the commissioner, and three and one-half percent (3-1/2%) interest.

After July 1, 1975, any company may file with the commissioner a written notice of its election to comply with the provisions of this subdivision (3) after a specified date before January 1, 1979, which shall be the operative date of this subdivision for such company, provided that an insurer may elect a different operative date for individual annuity and pure endowment contracts from that elected for group annuity and pure endowment contracts. If a company makes no such election, the operative date of this subdivision for such company shall be January 1, 1979."

Sec. 2. Subsection (e) of G.S. 58-201.2, as the same appears in the 1965 Replacement Volume 2B, is amended by striking out the words ", not exceeding three and one-half percent (3-1/2%) per annum," in the fifth and sixth lines of subdivision (2); and by inserting after the word "benefits" and before the comma in line 7 the following: "provided that such rate of interest shall not exceed three and one-half percent (3-1/2%) per annum except that a rate of

interest not exceeding four percent (4%) per annum may be used for policies issued on or after July 1, 1975, and prior to January 1, 1986, and".

Sec. 3. Subsection (e) of G.S. 58-201.2, as the same appears in the 1965 Replacement Volume 2B, is further amended by striking out the words ", not exceeding three and one-half percent (3-1/2%) per annum," in the fifth and sixth lines of subdivision (3); and by inserting after the word "benefits" and before the semicolon in line 7 the following: "provided that such rate of interest shall not exceed three and one-half percent (3-1/2%) per annum except that a rate of interest not exceeding four percent (4%) per annum may be used for policies issued on or after July 1, 1975, and prior to January 1, 1986".

Sec. 4. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 5. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 16th day of June, 1975.

H. B. 874 CHAPTER 604

AN ACT REPEALING CHAPTER 127 AND ARTICLE 23 OF CHAPTER 143 OF THE NORTH CAROLINA GENERAL STATUTES, ENTITLED RESPECTIVELY, "MILITIA" AND "ARMORIES" AND ENACTING A NEW CHAPTER 127 IN LIEU THEREOF RELATING TO MILITIA.

The General Assembly of North Carolina enacts:

Section 1. Chapter 127 of the General Statutes entitled "Militia" and Article 23 of Chapter 143 entitled "Armories" is hereby repealed.

Sec. 2. A new Chapter 127 of the General Statutes is hereby enacted.

"Article 1.

"Classification of Militia.

"§ 127-1. *Composition of militia.*—The militia of the State shall consist of all able-bodied citizens of the State and of the United States and such other able-bodied persons who have or shall declare their intention to become citizens of the United States, subject to such qualifications as may be hereinafter prescribed, who shall be drafted into said militia or shall voluntarily accept commission, appointment, or assignment to duty therein.

"§ 127-2. *Classification of militia.*—The militia shall be divided into the organized and unorganized militia. The organized militia shall consist of four classes: the North Carolina National Guard, the Naval Militia, the State Defense Militia and Historic Military Commands.

"§ 127-3. *Organized militia; national guard.*—The North Carolina National Guard, both Army and Air, shall consist of regularly commissioned, warrant and enlisted personnel between such ages as may be established by regulations promulgated by the secretary of the appropriate service and shall be organized, governed, armed, equipped and have such duties and responsibilities as hereinafter provided.

"§ 127-4. *Organized militia; naval militia.*—The naval militia shall consist of regularly commissioned, warrant and enlisted personnel between such ages as may be established by regulations promulgated by the secretary of the appropriate service and shall be organized, governed, armed, equipped and have such duties and responsibilities as hereinafter provided.

"§ 127-5. *Organized militia; State defense militia.*—The State defense militia shall consist of commissioned, warrant and enlisted personnel called, ordered, appointed or enlisted therein by the Governor under the provisions of Article 5 of this Chapter and shall be organized, governed, armed, equipped and have such duties and responsibilities as hereinafter provided.

"§ 127-6. *Organized militia; Historic Military Commands.*—Historic Military Commands are those historic groups which remain active by meeting at least once a month and which follow military procedures. Only such groups as may be designated by the Governor shall fall within this branch of the militia. Any maximum age limits prescribed by this Chapter shall not be applicable to members of historic military commands.

"§ 127-7. *Composition of unorganized militia.*—The unorganized militia shall consist of all other able-bodied citizens of the State and of the United States and such other able-bodied persons who have or shall declare their intention to become citizens of the United States, who shall be at least 17 years of age, and, except as otherwise provided by law, under 64 years of age.

"§ 127-8. *Exemptions from duty with the militia.*—The officers, judicial and executive, of the government of the United States and the State of North Carolina, persons in the military or naval service of the United States, custom house clerks, persons employed by the United States in the transmission of mail, artificers and personnel employed in the armories, arsenals and navy yards of the United States, pilots, mariners actually employed in the sea service of any citizen or merchant within the United States shall be exempt from duty with the militia without regard to age, and all persons who, because of religious beliefs, shall claim exemption from duty with the militia, if the conscientious holding of such belief by such person shall be established under such regulations as are or may be prescribed for exemption from service with the armed forces of the United States, shall be exempted from militia service in a combatant capacity; but no person so exempted shall be exempt from militia service in any capacity that shall be declared non-combatant for the armed forces of the United States.

"§ 127-9. *Number of troops authorized.*—In time of peace the State shall maintain only such troops as may be authorized by the President of the United States; but nothing contained in this Chapter shall be construed as limiting the rights of the State in the use of the National Guard or the State Defense Militia or both within its borders in time of peace. Nothing contained in this Chapter shall prevent the organization and maintenance of State police or constabulary.

"§ 127-10. *Corps entitled to retain privileges.*—Any corps of artillery, cavalry, or infantry existing in the State on the passage of the act of Congress of May 8, 1792, which by the laws, customs, or usages of the State has been in continuous existence since the passage of such act, under its provisions and under the provisions of section 232 and sections 1625 to 1660, both inclusive, of Title 16 of the revised statutes of 1873 and the act of Congress of January 21, 1903, relating to the militia, shall be allowed to retain its ancient privileges, subject, nevertheless, to all duties required by law of the militia; but such organizations may be a part of the national guard, and entitled to all the privileges of this Chapter, and shall conform in all respects to the organization, discipline, and training of the national guard in time of war. For purposes of training and when on active duty in the service of the United States they may be assigned to higher

units, as the President may direct, and shall be subject to the orders of officers under whom they shall be serving.

"Article 2.

"General Administrative Officers.

"§ 127-11. *Governor as Commander in Chief.*—The Governor shall be Commander in Chief of the militia and shall have power to call out the militia to execute the laws, secure the safety of persons and property, suppress riots or insurrections, repel invasions and provide disaster relief.

"§ 127-12. *Commander in Chief to prescribe regulations.*—The Commander in Chief shall have the power and it shall be his duty from time to time to issue such orders and to prescribe such regulations relating to the organized and unorganized militia as will cause the same at all times to conform to the federal requirements of the United States government relating thereto.

"§ 127-13. *Personal staff of Governor.*—The Governor may detail not more than 10 active National Guard members and two active Naval Militia members who shall in addition to their regular duties, perform the duties of aides-de-camp on the personal staff of the Governor.

"§ 127-14. *Adjutant General.*—The military head of the militia shall be the Adjutant General who shall hold the rank of Major General. The Adjutant General shall be appointed by the Governor in his capacity as Commander in Chief of the militia, in consultation with the Secretary of Military and Veterans Affairs, and shall serve at the pleasure of the Governor. No person shall be appointed as Adjutant General who has less than five years' commissioned service in an active status in any component of the armed forces of the United States. The Adjutant General, while holding such office, may be a member of the active National Guard or Naval Militia.

Subject to approval of the Governor and in consultation with the Secretary of Military and Veterans Affairs, the Adjutant General may appoint a Deputy Adjutant General and an Assistant Adjutant General for Air National Guard, both of whom may hold the rank of Brigadier General and who shall serve at the pleasure of the Governor. The Adjutant General may also employ such staff members and other personnel as may be authorized by the Secretary and funded.

"§ 127-15. *Administrative and operational relationships of the Adjutant General.*—In all administrative and operational matters affecting the militia while under State control, the Adjutant General shall be responsible to and subject to the direction and supervision of the Secretary of Military and Veterans Affairs.

"§ 127-16. *United States Property and Fiscal Officer.*—(a) The Governor of the State, in consultation with the Secretary of Military and Veterans Affairs, shall appoint, designate, or detail, subject to the approval of the Secretary of the Army and the Secretary of the Air Force, a qualified commissioned officer of the North Carolina National Guard who is also a commissioned officer of the Army National Guard of the United States or the Air National Guard of the United States, as the case may be, to be the United States Property and Fiscal Officer for North Carolina. If the officer is not on active duty, the President may order him to active duty, with his consent, to serve as a property and fiscal officer.

(b) The status of the United States Property and Fiscal Officer is that of a reserve commissioned officer of the Army or Air Force, as appropriate, on extended active duty and detailed for duty with the National Guard Bureau for administrative purposes. In his capacity as United States Property and Fiscal

Officer, he will function under the direction of and cooperate fully with the State Adjutant General.

(c) The assumption and performance of duties and responsibilities, pay and allowances, and other personnel actions to include retention and retirement of an officer appointed and serving as the United States Property and Fiscal Officer will be governed by regulations promulgated by the National Guard Bureau or pursuant to regulations promulgated by the secretary of the appropriate service.

"§ 127-17. *North Carolina Property and Fiscal Officer.*—(a) Upon full mobilization of the North Carolina National Guard into Federal Service to the extent that the functions of a United States Property and Fiscal Officer no longer exist or are authorized under federal statutes, the Governor of the State, in consultation with the Secretary of Military and Veterans Affairs, may appoint, designate or detail a qualified individual to serve at the pleasure of the Governor as the North Carolina Property and Fiscal Officer for any composition of a non-federally recognized State National Guard or State Defense Militia organized under the provisions of G.S. 127-1 et seq.

(b) In consideration of his services for the responsibility, care, utilization, and issue of State or federal facilities and property, under the jurisdiction of the State of North Carolina, the North Carolina Property and Fiscal Officer shall receive from the State such salary as the Governor may authorize to be just and proper; the salary to constitute a charge upon appropriations made to the Department of Military and Veterans Affairs.

(c) The Property and Fiscal Officer for North Carolina shall be an employee of the Department of Military and Veterans Affairs. He shall be required to give good and sufficient bond to the State, the amount thereof to be determined by the Governor, for the faithful performance of his duties and for the safekeeping and proper distribution of such funds and property entrusted to his care. He shall receipt for and account for all funds and property allotted to his custody from the appropriation for military purposes by State and federal agencies, and shall make such returns and reports through the Secretary of Military and Veterans Affairs concerning same as may be required by the Governor or State laws.

"§ 127-18. *Commissions for commandants and officers at qualified educational institutions.*—The Governor of North Carolina is authorized to appoint and commission, as staff officers of the North Carolina unorganized militia, the officers of any university, college, academy or other educational institution which qualifies as herein provided. Any university, college, academy or other educational institution shall be qualified under this section when such institution has been regularly incorporated under and by virtue of the laws of North Carolina; the institution, as a part of its courses of study, regularly teaches military science and tactics; the Department of Defense at Washington, D. C., has detailed an officer of the armed forces as professor or assistant professor of military science and tactics; the institution has been designated as qualified by the secretary of the appropriate service and has been made a unit of the Senior or Junior Reserve Officers' Training Corps, or the institution, not having a unit of the Reserve Officers' Training Corps, has been approved and authorized by the Secretary of Defense to participate in the National Defense Cadet Corps Training Program or other military training programs under Title 10, United States Code, sections 3540 and 4651.

Any qualified institution desiring the appointment of officers in the North Carolina unorganized militia shall make application to the Governor setting

forth all requisite facts as to its qualifications, the names of the persons to be commissioned, the rank desired for each, and the person's position at the institution. The application shall be signed by the chancellor, president, superintendent or other presiding official, under the seal of the institution. Upon receipt of the application, the Governor may appoint and commission the officers of such qualified institution as follows: the chancellor, president, superintendent or other presiding official, as colonel; the vice-president, principal or other officer second in authority, as major; the professors and members of the faculty, as captains. The persons so commissioned shall have no connection with the national guard or other military forces of the State, nor shall they exercise any military authority other than in the discharge of their duties at their respective institutions. The commissions issued under this section may be terminated at the will of the Governor.

"Article 3.

"National Guard.

"§ 127-19. *National Guard.*—The National Guard Class of the four classes of the organized militia as established under G.S. 127-2 is hereby designated the North Carolina National Guard. Those elements of the North Carolina National Guard which receive federal recognition by the United States Government shall hold a dual status both as State troops and as a reserve component of the armed forces of the United States. In its federal status, the North Carolina National Guard shall be subject to federal laws and regulations pertaining thereto. The Adjutant General shall insure compliance with such federal laws and regulations and with all State laws and orders of the Governor not inconsistent with those federal laws and regulations.

"§ 127-20. *Organization of national guard units.*—Except as otherwise specifically provided by the laws of the United States, the organization of the national guard, including the composition of all units thereof, shall be the same as that which is or may hereafter be prescribed for the regular army or air force subject in time of peace to such general exceptions as may be authorized by the Secretary of Defense.

"§ 127-21. *Location of units.*—The Governor shall determine and fix the location of the units and headquarters of the national guard within the State; but no organization of the national guard, members of which shall be entitled to and shall have received compensation under the provisions of the act of Congress approved June 3, 1916, as amended, shall be disbanded without the consent of the President, nor without such consent shall the commissioned or enlisted strength of any such organization be reduced below the minimum that is now or shall be hereafter prescribed therefor by the President.

"§ 127-22. *Officers appointed and commissioned; oath of office.*—All officers of the national guard shall be appointed and commissioned by the Governor as follows, viz.:

(1) Except as otherwise specifically provided by the laws of the United States, the qualifications for appointment as an officer in the national guard shall be the same as those prescribed for the regular establishment, subject to such general exceptions as may be authorized by the Secretary of Defense.

(2) Candidates for such appointment shall make written application therefor on such forms as may be prescribed by the secretary of the appropriate service, to the Adjutant General, State of North Carolina, through command channels for comment by endorsements thereon.

(3) No person shall hereafter be appointed an officer of the national guard unless he has established to the satisfaction of a board of officers his physical, moral, and professional qualifications to perform the duties of the grade and position for which examined, subject to such general exceptions as may be authorized by the Secretary of Defense. The board shall consist of three or more commissioned officers of the appropriate service, appointed under such regulations as may be promulgated by the secretary of the appropriate service.

(4) Candidates appointed as officers of the national guard shall take and subscribe to the following oath of office:

'I, (First Name - Middle Name - Last Name), do solemnly swear that I will support and defend the Constitution of the United States and the Constitution of the State of North Carolina against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I will obey orders of the President of the United States and of the Governor of the State of North Carolina; that I make this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office of (Grade) (Branch) in the National Guard of the State of North Carolina upon which I am about to enter, so help me God.'

"§ 127-23. *Promotion of officers by seniority and in accordance with regulations.*—The promotion of all officers shall be by seniority as far as the same is practicable and to the best interest of the service within the organization, and in accordance with regulations promulgated by the secretary of the appropriate service.

"§ 127-24. *Relative rank among officers of same grade.*—Officers of the North Carolina National Guard in the same grade rank among themselves according to the date of rank established by regulations promulgated by the secretary of the appropriate service and the Adjutant General of the State of North Carolina.

"§ 127-25. *Elimination and disposition of officers; efficiency board; transfer to inactive status.*—(a) Whenever the efficiency or general fitness, including physical fitness, of a national guard officer is in question, the Adjutant General, State of North Carolina, may order him to appear before an efficiency board to determine whether or not the appointment of the officer should be withdrawn. The efficiency board will be composed of not less than three commissioned officers, all senior in rank to the officer undergoing investigation. A member of the board serving in a legal or medical advisory capacity may be junior to any person, other than a judge advocate, law specialist, or medical officer being considered. The findings of an efficiency board are not final until reviewed and approved by the Secretary of the Department of Military and Veterans Affairs and the Governor of the State of North Carolina.

(b) Commissions of officers of the national guard may be vacated upon resignation, absence without leave for 30 days, pursuant to sentence of a court martial, or pursuant to regulations promulgated by the secretary of the appropriate service.

(c) Officers of the national guard may, upon their own request, be transferred to the inactive national guard, subject to such exceptions as may be authorized by the Adjutant General, State of North Carolina, or the Secretary of Defense.

"§ 127-26. *Retirement of officers.*—Retirement of officers shall be regulated so as to conform to federal laws and regulations of the United States relating to retirement of national guard officers.

"§ 127-27. *Enlistments in national guard; oath of enlistment.*—(a) Enlistments in the national guard shall be for such periods and subject to such qualifications as prescribed by the secretary of the appropriate service.

(b) Enlisted men shall not be recognized as members of the national guard until they shall have subscribed to the following oath of enlistment:

'I do hereby acknowledge to have voluntarily enlisted this _____ day of _____, 19 ____, in the (Army) (Air) National Guard of the State of North Carolina and as a Reserve of the (Army) (Air Force) with membership in the (Army National Guard of the United States) (Air National Guard of the United States) for a period of (Years - Months - Days) under the conditions prescribed by law, unless sooner discharged by proper authority.

I, (First name - Middle name - Last Name), do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and of the State of North Carolina against all enemies, foreign and domestic; that I will bear true faith and allegiance to them; and that I will obey the orders of the President of the United States and the Governor of North Carolina and the orders of the officers appointed over me, according to law, regulations, and the Uniform Code of Military Justice, so help me God.'

"§ 127-28. *Discharge of enlisted personnel.*—(a) Enlisted personnel discharged from service in the national guard shall receive a discharge in writing in such form and with such classification as is or shall be prescribed under regulations promulgated by the appropriate service.

(b) Discharges may be given prior to the expiration of terms of enlistment under such regulations as may be prescribed by the Adjutant General, State of North Carolina, or pursuant to regulations promulgated by the secretary of the appropriate service.

"§ 127-29. *Membership continued in the national guard.*—When called or ordered into federal service and discharged therefrom, members shall continue their membership in the national guard until the expiration of their enlistment or appointment, unless sooner terminated by proper authority.

"§ 127-30. *Pensions for the members of the North Carolina National Guard.*—(a) Every member and former member of the North Carolina National Guard who meets the requirements hereinafter set forth shall receive, commencing at age 60, a pension of fifty dollars ($50.00) per month for 20 years' creditable military service with an additional five dollars ($5.00) per month for each additional year of such service; provided, however, that the total pension shall not exceed one hundred dollars ($100.00) per month. The requirements for such pension are that each member shall:

(1) Have served and qualified for at least 20 years' creditable military service, including national guard, reserve and active duty, under the same requirement specified for entitlement to retired pay for nonregular service under Chapter 67, Title 10, United States Code.

(2) Have at least 15 years of the aforementioned service as a member of the North Carolina National Guard.

(3) Have received an honorable discharge from the North Carolina National Guard.

(b) Payment to a retired member of the North Carolina National Guard under the provisions of this section will cease at the death of the individual and no payment will be made to beneficiaries or to the decedent's estate.

(c) No individual receiving retired pay as a result of length of service, age or physical disability retirement from any of the regular components of the armed forces of the United States will be eligible for benefits under this section.

(d) Nothing contained in this section shall preclude or in any way affect the benefits that an individual may be entitled to from State, federal or private retirement systems.

(e) Benefits paid under the provisions of this section shall be exempt from the North Carolina income tax.

(f) The provisions of this section shall be administered by the Secretary of Military and Veterans' Affairs.

(g) The provisions of this section shall apply to any member or former member of the North Carolina National Guard who is qualified for the above retirements with eligibility of such person commencing at age 60 or July 1, 1974, whichever is the later date.

"§ 127-31. *Uniforms, arms and equipment.*—The national guard shall, as far as practicable, be uniformed, armed and equipped with the same type of uniforms, arms and equipment as is or shall be provided for the appropriate regular service.

"§ 127-32. *Distinguished Service Medal by Governor of North Carolina.*—There is hereby created the North Carolina Distinguished Service Medal which shall be of appropriate design, and a ribbon, together with a rosette or other device to be worn in lieu thereof. This medal and appurtenances thereto shall be of a design approved by the Governor. The Governor is authorized to present such medal, upon the recommendation of the Adjutant General of North Carolina and a board consisting of all general officers and officers assigned to authorized general officer grade vacancies, North Carolina National Guard, to any member or former member of the armed forces who has distinguished, or who shall distinguish himself by exceptionally meritorious conduct in the performance of outstanding service to the North Carolina National Guard.

"§ 127-33. *North Carolina National Guard Meritorious Service Medal.*—There is hereby created in the North Carolina National Guard Meritorious Service Medal which shall be of appropriate design, and a ribbon, together with a rosette or other device to be worn in lieu thereof. This medal and appurtenances thereto shall be of a design approved by the Governor or his designated representative. The Governor or his designated representative is authorized to award this medal upon the recommendation of the Adjutant General and a board of officers appointed by the Adjutant General. Any member, or former member discharged under honorable conditions, of the North Carolina National Guard who distinguishes himself by heroism, meritorious achievement, or meritorious service to the North Carolina National Guard is eligible for this award. The required heroism, achievement, or service, while of a lesser degree than that required for award of the North Carolina Distinguished Service Medal, must nevertheless have been accomplished with distinction.

"§ 127-34. *North Carolina Commendation Ribbon.*—There is hereby created the North Carolina Commendation Ribbon which shall be a ribbon of appropriate design as approved by the Governor or his designated representative. The Adjutant General of North Carolina is authorized to award this ribbon to members of the organized militia who have brought credit to themselves, the military service and the State by their example or their performance of a

specific act while a member of the organized militia, but not necessarily while in a State or federal duty status.

"§ 127-35. *North Carolina National Guard State Active Duty Awards.*—There is hereby created the North Carolina National Guard State Active Duty Award which shall be a ribbon of appropriate design. This ribbon and appurtenances thereto shall be of a design approved by the Governor or his designated representative. The Adjutant General of North Carolina is authorized to award this ribbon to members of the North Carolina National Guard who satisfactorily serve a tour of State active duty on or after July 1, 1974, by order of the Governor and said tour of State active duty having been designated by the Adjutant General of North Carolina as worthy of this award. Said tours of State active duty designated for this award are to be of such nature as to be a distinct and notable service to a community or the State.

"§ 127-36. *Authority to wear medals, ribbons and other awards.*—The Adjutant General may prescribe those medals, ribbons and other awards and decorations which may be worn by members of the militia, not inconsistent with regulations of the respective armed services of the United States.

"§ 127-37. *Courts-martial for national guard.*—Courts-martial for organizations of the national guard not in the service of the United States shall be of three kinds, namely, general courts-martial, special courts-martial, and summary courts-martial. They shall be constituted, have cognizance of the same subjects, and possess like powers, except as to punishments, as similar courts provided for by the law and regulations governing the armed forces of the United States, and the proceedings of courts-martial of the national guard shall follow the forms and modes of procedure prescribed for such similar courts.

"§ 127-38. *General courts-martial.*—General courts-martial of the national guard not in the service of the United States may be convened by orders of the Governor of the State, and such courts shall have the power to impose fines not exceeding two hundred dollars ($200.00); sentence to forfeiture of pay and allowances; to a reprimand; to dismissal or dishonorable discharge from the service; to reduction of enlisted personnel to the ranks; or any two or more of such punishments may be combined in the sentences imposed by such courts.

"§ 127-39. *Special courts-martial; appointments, power and authority.*—In the national guard, not in the service of the United States, special courts-martial may be appointed by: (1) the commander of a brigade, regiment, comparable or higher command of the North Carolina Army National Guard; (2) the commander of a wing, group, separate squadron, comparable or higher command of the North Carolina Air National Guard; (3) the commander or officer in charge of any North Carolina National Guard command when empowered by the Governor or the Adjutant General of North Carolina.

Except as to commissioned officers, such courts-martial shall have the power and authority to try any person subject to military law for any crimes or offenses within the jurisdiction of a general military court. Such courts-martial shall have the same powers of punishment as general courts-martial except that fines imposed by such courts-martial shall not exceed one hundred dollars ($100.00), and such courts-martial shall not have the power of dismissal from the national guard.

"§ 127-40. *Summary courts-martial.*—In the national guard, not in the service of the United States, summary courts-martial may be appointed by the commander of any company, battery, detachment, squadron, or any other

federally recognized unit, either army or air. Such court shall consist of one officer, who shall have the power to administer oaths and try enlisted personnel of each respective command for breaches of discipline and violations of laws governing such organizations. Such courts shall also have the power to impose fines not exceeding twenty-five dollars ($25.00) for any single offense, may sentence to forfeiture of pay and allowances, or may sentence enlisted personnel to reduction in rank; but in the case of noncommissioned officers above the fourth enlisted grade, may not adjudge reduction except to the next inferior grade.

"§ 127-41. *Nonjudicial punishment.*—Any commander of the national guard, not in the service of the United States, may, in addition to or in lieu of admonition or reprimand, impose nonjudicial punishment in like manner and to the extent prescribed by Article 15 of the Uniform Code of Military Justice, Manual for Courts-Martial, United States, 1951, as amended from time to time.

"§ 127-42. *Jurisdiction of courts-martial.*—The jurisdiction of courts-martial of the national guard, not in the service of the United States, except as to punishments, shall be as prescribed by the Manual for Courts-Martial, United States, 1951, as amended from time to time. Such courts-martial shall have jurisdiction to try accused persons for offenses committed while serving without the State and while going to and returning from such service without the State in like manner and to the same extent as while serving within the State.

"§ 127-43. *Manual for Courts-Martial.*—Trials and proceedings by all courts and boards shall be in accordance with the plans and procedures laid down in the Manual for Courts-Martial, United States, 1951, as amended from time to time.

"§ 127-44. *Sentences; where executed.*—All sentences to confinement imposed by any military court of this State shall be executed in such prisons as the court may designate.

"§ 127-45. *Forms for courts-martial procedure.*—In the national guard, not in the service of the United States, forms for courts-martial procedure shall be substantially as those set forth in the Appendices, Manual for Courts-Martial, United States, 1951, as amended.

"§ 127-46. *Powers of courts-martial.*—In the national guard, not in the service of the United States, presidents of courts-martial and summary court officers shall have power to issue warrants to arrest accused persons and to bring them before the court for trial whenever such persons shall have disobeyed an order in writing from the convening authority to appear before such court, a copy of the charge or charges having been delivered to the accused with such order, and to issue commitments in carrying out sentences of confinement, and to issue subpoenas and subpoenas duces tecum, and to enforce by attachment attendance of witnesses and the production of books, papers, records and other articles subject to a subpoena duces tecum, and to sentence for a refusal to be sworn or to answer as provided in actions before civil courts. He shall also have power to punish for contempt occurring in the presence of the court.

In addition to the power to issue warrants set forth in the first paragraph of this section, the arrest and confinement of persons subject to this Chapter may be accomplished by the means and under the procedures set forth in Articles 9 and 10 of the Uniform Code of Military Justice, Manual for Courts-Martial, United States, 1951, as amended from time to time.

"§ 127-47. *Execution of processes and sentences.*—All processes and sentences of any of the military courts of this State shall be executed by any sheriff,

deputy sheriff, or police officer into whose hands the same may be placed for service or execution, and such officer shall make return thereof to the officer issuing or imposing the same. Such service or execution of process or sentence shall be made by such officer without tender or advancement of fee therefor; but all costs in such cases shall be paid from funds appropriated for military purposes. The actual necessary expenses of conveying a prisoner from one county in the State to another, when the same is authorized and directed by the Adjutant General of the State, shall be paid from the military funds of the State upon a warrant approved by the Adjutant General.

"§ 127-48. *Sentence of confinement.*—All courts-martial of the national guard, not in the service of the United States, including summary courts, shall have power to sentence to confinement in lieu of fines authorized to be imposed: Provided, that such sentences of confinement shall not exceed one day for each one dollar ($1.00) of fine authorized.

"§ 127-49. *Commitments.*—When any sentence to fine or imprisonment shall be imposed by any military court of this State, it shall be the duty of the president of said court, or summary court officer, upon the approval of the findings and sentence of such court, to make out and sign a certificate entitling the case, giving the name of the accused, the date and place of trial, the date of approval of sentence, the amount of fine or manner, place, and duration of confinement, and deliver such certificate to the sheriff, or deputy sheriff, or police officer of the county wherein the sentence is to be executed; and it shall thereupon be the duty of such officer to carry said sentence into execution in the manner prescribed by law for the collection of fines or commitment to service of terms of imprisonment in criminal cases determined in the courts of this State.

"§ 127-50. *Sentence of dismissal.*—No sentence of dismissal from the service or dishonorable discharge, imposed by a national guard court-martial not in the service of the United States, shall be executed until approved by the Governor. Any officer convicted by a general court-martial and dismissed from the service shall be forever disqualified from holding a commission in the militia.

"§ 127-51. *Disposition of fines.*—Fines imposed by courts-martial under this Chapter shall be disposed of as prescribed in Article IX, Section 7, of the Constitution of North Carolina.

"ARTICLE 4.

"Naval Militia.

"§ 127-52. *Organization and equipment.*—The organization of the naval militia shall be units of convenient size, in each of which the number and rank of officers and the distribution of the total enlisted strength among the several ratings of petty officers and other enlisted personnel shall be such as are prescribed by the Secretary of the Navy, who may also prescribe the number of officers and the number of petty officers and other enlisted personnel required for the organization of such units into larger bodies for administrative and other purposes, and the arms and equipment of the naval militia shall be those which are now or may hereafter be prescribed by the Secretary of the Navy.

"§ 127-53. *Officers appointed to naval militia.*—Officers of the United States Navy and Marine Corps may, with the approval of the Secretary of the Navy, be appointed by the Governor and commissioned as officers of the naval militia.

"§ 127-54. *Officers assigned to duty.*—Line officers of the naval militia may be for line duties only, for engineering duties only, or for aeronautic duties only.

"§ 127-55. *Discipline in naval militia.*—The naval militia shall be subject to the system of discipline prescribed for the United States Navy and Marine Corps, and the commanding officer of a naval militia battalion or brigade, or a naval militia officer in command of naval militia forces on shore or on any vessel of the navy loaned to the State, or on any vessel on which such forces are training, whether within or without the State, or wherever, either within or without the State, naval militia forces of the State shall be assembled pursuant to orders, shall have power without trial by courts-martial to impose upon members of the naval militia the punishments which the commanding officer of a vessel of the navy is authorized by law to impose.

"§ 127-56. *Disbursing and accounting officer.*—The Governor shall appoint a disbursing officer, approved by and of such rank as may be prescribed by the Secretary of the Navy, to perform such duties as the Secretary of the Navy may prescribe. The Governor shall also appoint the above described disbursing officer, or such other officer of the pay corps of the naval militia as he may elect, as accounting officer for each battalion thereof, or at his option for each larger unit or combination of units of the same, who shall be responsible for the proper accounting for all public property issued to and for the use of such battalion or larger unit or combination of units.

"§ 127-57. *Rendition of accounts.*—Accounting officers shall render accounts as prescribed by the Governor or by the Secretary of the Navy, and shall be required to give good and sufficient bond to the State and to the United States, in such sums as the Governor or the Secretary of the Navy may direct, and conditioned upon the faithful accounting for all public property and for the safekeeping of such part thereof as may be in the personal custody of such officer. Accounting officers may issue any or all such property to other officers or enlisted personnel of the naval militia under such rules and regulations as may be prescribed.

"§ 127-58. *Disbandment of naval militia.*—No part of the naval militia which is entitled to compensation under the provisions of an act of Congress approved August 29, 1916, shall be disbanded without the consent of the President.

"§ 127-59. *Courts-martial for naval militia.*—Courts-martial for the naval militia, not in the service of the United States, shall be organized, have the same powers, functions and authorities, and follow the same procedures as courts-martial for the national guard as set forth in G.S. 127-37 through G.S. 127-51.

"ARTICLE 5.

"State Defense Militia.

"§ 127-60. *Authority to organize and maintain State Defense Militia of North Carolina.*—(a) The Governor is authorized to organize such part of the unorganized militia as a State force for discipline and training, into companies, battalions, regiments, brigades or similar organizations, as may be deemed necessary for the defense of the State; to maintain, uniform and equip such military force within the appropriations available; to exercise discipline in the same manner as is now or may hereafter be provided by the laws of the State for the National Guard. Such military force shall be subject to the call or the order of the Governor to execute the law and secure the safety of persons and property, suppress riots or insurrections, repel invasions or provide disaster relief, as may now or hereafter be provided by law for the national guard or for the State militia.

(b) Such military force shall be designated as the 'North Carolina State Defense Militia' and shall be composed of personnel of the unorganized militia as may volunteer for service therein or be drafted as provided by law. To be eligible for service in an enlisted status, a person must be at least 17 years of age and under 50 years of age, or under 64 years of age and a former member of the armed forces of the United States. To be eligible for service as an officer, a male must be at least 18 years of age and under 64, and a female at least 21 years of age and under 64. The force and its personnel shall be additional to and distinct from the national guard organized under existing law. A person may not become a member of the defense militia established under this section, if a member of a reserve component of the armed forces.

(c) The Governor is hereby authorized: to prescribe rules and regulations governing the appointment of officers, the enlistment of other personnel, the organization, administration, equipment, discipline and discharge of the personnel of such military force; to requisition from the Secretary of Defense such arms and equipment as may be in possession of and can be spared by the Department of Defense; and to furnish the facilities of available armories, equipment, State premises and property, for the purpose of drill and instruction.

(d) Such force shall not be called, ordered, or in any manner drafted, as such, into the military service of the United States, but no person shall by reason of membership therein, be exempt from military service under any federal law.

(e) The Governor is hereby authorized to transfer to the benefit of the State defense militia any available and unexpended funds which he shall find necessary for its use from any appropriations to the national guard by the General Assembly, and for the same purpose to allot moneys from the Contingency and Emergency Fund with the concurrence of the Council of State. Upon disbandment of the State defense militia any moneys or balance to the credit of any unit of this organization shall be paid into the State Treasury for the benefit of the national guard, and all property, clothing, and equipment belonging to the State shall be transferred to the account of the national guard for disposition in accordance with the best interests of the State and as deemed advisable by the Governor. Upon disbandment of any unit of the State defense militia prior to the disbandment of the entire organization, the Governor is authorized to direct the transfer of any State property or balance of funds of the disbanded unit to any other unit, including any new unit or units organized to fill vacancies, or otherwise, as the Governor may direct.

(f) The North Carolina State defense militia shall be subject to the military laws of the State not inconsistent with or contrary to the provisions contained in this Article with the following exceptions:

The provisions of G.S. 127-77, G.S. 127-78, G.S. 127-89 as amended, shall not be applicable to the personnel and units of the State defense militia.

(g) There shall be allowed annually to each unit or company of the State defense militia such funds as may be necessary to be applied to the payment of armory rent, heat, light, stationery, printing, and other expenses.

(h) All payments are to be made by the Secretary of the Department of Military and Veterans Affairs in accordance with State laws in semiannual installments on the first day of July and the first day of January of each year, but no payment shall be made unless all drills and duties required by law are duly performed by all organizations named.

(i) The commander of each organization participating in the appropriation herein named shall render an itemized statement of all funds received from any source whatsoever for the support of the organization in such manner and on such forms as may be prescribed by the Secretary of the Department of Military and Veterans Affairs. Failure on the part of any commander to submit promptly when due the financial statement of the organization will be sufficient cause to withhold all appropriations for the organization.

"§ 127-61. *State defense militia cadre.*—(a) The Governor is authorized: to organize and regulate part of the unorganized militia as a State defense militia cadre in units or commands which he may deem necessary to provide a cadre for an active State defense militia; to prescribe regulations for the maintenance of the property and equipment of the cadre, for the exercise of its discipline, and for its training and duties.

(b) The cadre shall be designated the 'North Carolina State Defense Militia Cadre' and shall be composed of a force of officers and enlisted personnel raised by appointment of the Governor, or otherwise, as may be provided by law. Personnel of the cadre shall serve without pay. The Secretary of the Department of Military and Veterans Affairs may reimburse cadre members for expenses actually incurred, not to exceed the amount appropriated and authorized for such purposes by the General Assembly.

(c) The Governor's authority hereunder shall not be subject to regulations prescribed by the Secretary of Defense. Age and membership requirements for the State defense militia generally, as set forth in G.S. 127-60 shall apply. The training of the cadre need not be in accordance with training regulations issued by the Department of Defense. The provisions of G.S. 127-58(c), (d), (g), (h) and (i) shall also apply to cadres.

(d) The total authorized strength of the cadre, its authorized officer and enlisted strength, the composition of each of its units or commands, and the allocation of cadre units or commands among the counties, cities, and towns of the State, shall be as prescribed by the Governor in suitable regulations enforced through the Adjutant General, or as otherwise provided by law.

(e) The duties of the State defense militia cadre shall be as ordered and directed by the Governor from time to time, or in regulations, and may include authority to take charge of armories and other military installations and real properties used by the North Carolina National Guard, together with such other property as the regulations may provide, when and if the North Carolina National Guard, or any part thereof, may be inducted into the service of the United States, or, for any extended period of time, may be absent on any duty from its home station. In addition, the cadre shall have duties appropriate to the organization, maintenance, and training of a military cadre to act as a nucleus for the organization of an active State defense militia whenever the necessity may arise.

"Article 6.

Unorganized Militia.

"§ 127-62. *Unorganized militia ordered out for service.*—The commander in chief may at any time, in order to execute the law, secure the safety of persons and property, suppress riots or insurrections, repel invasions or provide disaster relief, in addition to the national guard, the State defense militia and the naval militia, order out the whole or any part of the unorganized militia. When the militia of this State or a part thereof is called forth under the Constitution and

Laws of the United States, the Governor shall first order out for service the national guard, the State defense militia or naval militia, or such thereof as may be necessary, and if the number available be insufficient, he shall then order out such a part of the unorganized militia as he may deem necessary. During the absence of organizations of the national guard or naval militia in the service of the United States, their state designations shall not be given to new organizations.

"§ 127-63. *Manner of ordering out unorganized militia.*—The Governor shall, when ordering out the unorganized militia, designate the number. He may order them out either by calling for volunteers or by draft. He may attach them to the several organizations of the national guard, the State defense militia or naval militia, as may be best for the service.

"§ 127-64. *Draft of unorganized militia.*—If the unorganized militia is ordered out by draft, the Governor shall designate the persons in each county to make the draft, and prescribe rules and regulations for conducting the same.

"§ 127-65. *Punishment for failure to appear.*—Every member of the militia ordered out for duty, or who shall volunteer or be drafted, who does not appear at the time and place ordered, shall be liable to such punishment as a court-martial may determine.

"§ 127-66. *Promotion of Marksmanship.*—The Adjutant General is authorized to detail a commissioned officer of the North Carolina National Guard or member of the State defense militia to promote rifle marksmanship among the State defense militia and the unorganized militia of the State. Such officer or member so detailed shall serve without pay and it shall be his duty to organize and supervise rifle clubs in schools, colleges, universities, clubs and other groups, under such rules and regulations as the Adjutant General shall prescribe and in such manner to make them, when duly organized, acceptable for membership in the National Rifle Association. Provided, that such duties and efforts shall in no wise interfere or conflict with clubs of schools or units operating in ROTC or similar schools under the supervision of armed forces instructors.

"Article 7.

"Regulations as to Active Service.

"§ 127-67. *National guard and naval militia first ordered out.*—In all cases the national guard and naval militia as provided for in this Chapter shall be first ordered into service.

"§ 127-68. *Regulations enforced on active State service.*—Whenever any portion of the militia shall be called into active State service to execute the law, secure the safety of persons and property, suppress riots or insurrections, repel invasions or provide disaster relief, the provisions of the Uniform Code of Military Justice of the United States, governing the armed forces of the United States, and the regulations prescribed for the armed forces of the United States, and the regulations issued thereunder, shall be enforced and regarded as part of this Chapter until said forces shall be relieved from such duty. As to offenses committed when such provisions of the Uniform Code of military justice of the United States are so enforced, courts-martial shall possess, in addition to the jurisdiction and power of sentence and punishment herein vested in them, all additional jurisdiction and power of sentence and punishment exercisable by like courts under such provisions of the Uniform Code of Military Justice of the United States or regulations or laws governing the United States Armed Forces

or the customs and usages thereof; but no punishment under such Code which shall extend to the taking of life shall in any case be inflicted except in case of war, invasion, or insurrection, declared by a proclamation of the Governor to exist and then only after approval by the Governor of the sentence inflicting such punishment. Imprisonment other than in guard house shall be executed in county jails or other prisons designated by the Governor for that purpose.

"§ 127-69. *Regulations governing unorganized militia.*—Whenever any part of the unorganized militia is ordered out, it shall be governed by the same rules and regulations and be subject to the same penalties as the national guard or naval militia.

"Article 8.

"Pay of Militia.

"§ 127-70. *Rations and pay on State service.*—The militia of the State, both officers and enlisted personnel, when called into the service of the State by the Governor shall receive the same pay as when called or ordered into the service of the United States, and shall be rationed or paid the equivalent thereof, provided that no officer or enlisted personnel shall receive less than 12 times the minimum hourly wage per day as provided for in G.S. 95-87.

"§ 127-71. *Paid by the State.*—When the militia or any portion thereof shall be ordered by the Governor into State service, the pay, subsistence, transportation and other necessary expenses incident thereto shall be paid by the State Treasurer, upon the approval of the Governor and warrant of the auditor.

"§ 127-72. *Rate of pay for other service.*—The Governor may, whenever the public service requires it, order upon special or regular duty any officer or enlisted member of the national guard or naval militia, and the expenses and compensation therefor of such officer and enlisted member shall be paid out of the appropriations made to the Department of Military and Veterans Affairs. Such officers and enlisted members shall receive the same rate of pay as officers and enlisted members of the same grade and like service of the regular service, provided that no such officer or enlisted member shall receive less than 12 times the minimum hourly wage per day as provided for in G.S. 95-87. Officers and enlisted members when on duty in connection with examining boards, efficiency boards, advisory boards, courts of inquiry or similar duty shall be allowed per diem and subsistence prescribed for lawful State boards and commissions generally for such duty. Officers and enlisted members serving on general or special courts-martial shall receive the base pay of their rank. No staff officer or enlisted member who receives a salary from the State as such shall be entitled to any additional compensation other than actual and necessary expenses incurred while traveling upon orders issued by the proper authority.

"§ 127-73. *Pay and care of soldiers, airmen and sailors disabled in service.*—A member of the national guard, the State defense militia, or the naval militia who without fault or negligence on his part is disabled through illness, injury, or disease contracted or incurred while on duty or by reason of duty in the service of the State or while reasonably proceeding to or returning from such duty shall receive the actual necessary expenses for care and medicine and medical attention at the expense of the State and if such shall temporarily incapacitate him for pursuing his usual business or occupation he shall receive during such incapacity the pay and allowances as are provided for the same grade and rating in like circumstances in the active armed forces of the United States. If such member is permanently disabled, he shall receive the pensions and rewards that

persons under similar circumstances in the military service of the United States receive from the United States. In case any such member shall die as a result of such injury, illness or disease within one year after it has been incurred or contracted, the surviving spouse, minor children, or dependent parents of the member shall receive such pension and rewards as persons under similar circumstances receive from the United States.

The cost incurred by reason of this section shall be paid out of the Contingency and Emergency Fund, or such other fund as may be designated by law.

The Adjutant General, with the approval of the Governor, shall make and publish such regulations pursuant to this section as may be necessary for its implementation. Before the name of any person is placed on the disability or pension rolls of the State under this section, proof shall be made in accordance with such regulations that the applicant is entitled to such care, pension, or reward.

Nothing herein shall in any way limit or condition any other payment to such member as by law may be allowed: Provided, however, any payments made under the provisions of Chapter 97 of the General Statutes or under federal statutes as now or hereafter amended shall be deducted from the payments made under this section.

"§ 127-74. *Pay of general and field officers.*— General and field officers when away from their home stations visiting the organizations of their commands, for inspection and instruction under orders from proper authority, shall receive actual necessary expenses and the pay of their rank.

"§ 127-75. *Proceedings against third party injuring or killing guard personnel.*—(a) The right to compensation and other benefits under G.S. 127-73 shall not be affected by the fact that the injury or death was caused under circumstances creating a liability in some person other than the State to pay damages therefor, such person hereinafter being referred to as the 'third party.' The respective rights and interests of the guard member under this Article, and the State, if any, in respect of the common-law cause of action against such third party and the damages recovered shall be as set forth in this section.

(b) The guard member or personal representative if guard member be dead, shall have the exclusive right to proceed to enforce the liability of the third party by appropriate proceedings if such proceedings are instituted not later than 12 months after the date of injury or death, whichever is later, During said 12-month period, and at any time thereafter if summons is issued against the third party during said 12-month period, the guard member or personal representative shall have the right to settle with the third party and to give a valid and complete release of all claims to the third party by reason of such injury or death, subject to the provisions of (h) below.

(c) If settlement is not made and summons is not issued within said 12-month period, then all rights of the guard member, or personal representative if guard member be dead, against the third party shall pass by operation of the period fixed by the statute of limitations applicable to such rights and if the State shall not have settled with or instituted proceedings against the third party within such time, then all such rights shall revert to the guard member or personal representative 60 days before the expiration of the applicable statute of limitations.

(d) The person in whom the right to bring such proceeding or make settlement is vested shall, during the continuation thereof, also have the exclusive right to make settlement with the third party and the release of the person having the right shall fully acquit and discharge the third party except as provided by (h) below. A proceeding so instituted by the person having the right shall be brought in the name of the guard member or personal representative and the State shall not be a necessary or proper party thereto. If the guard member or personal representative should refuse to cooperate with the State by being the party plaintiff, then the action shall be brought in the name of the State and the guard member or personal representative shall be made a party plaintiff or party defendant by order of court.

(e) The amount of compensation and other benefits paid or payable on account of such injury or death shall not be admissible in evidence in any proceeding against the third party. If the third party defending such proceeding, by answer duly served on the State, sufficiently alleges that actionable negligence of the State joined and concurred with the negligence of the third party in producing the injury or death, then an issue shall be submitted to the jury in such case as to whether actionable negligence of the State joined and concurred with the negligence of the third party in producing the injury or death. The State shall have the right to appear, to be represented, to introduce evidence, to cross-examine adverse witnesses, and to argue to the jury as to this issue as fully as though it were a party although not named or joined as a party to the proceeding. Such issue shall be the last of the issues submitted to the jury. If the verdict shall be that actionable negligence of the State did join and concur with that of the third party in producing the injury or death, then the court shall reduce the damages awarded by the jury against the third party by the amount which the State would otherwise be entitled to receive therefrom by way of subrogation hereunder and the entire amount recovered, after such reduction, shall belong to the guard member or personal representative free of any claim by the State and the third party shall have no further right by way of contribution or otherwise against the State, except any right which may exist by reason of an express contract of indemnity between the State and the third party, which was entered into prior to the injury to the guard member.

(f) (1) Any amount obtained by any person by settlement with, judgment against, or otherwise from the third party by reason of such injury or death shall be disbursed by order of the court for the following purposes and in the following order of priority:

a. First to the payment of actual court costs taxed by judgment.

b. Second to the payment of the fee of the attorney representing the person making settlement or obtaining judgment, and such fee shall not exceed one-third of the amount obtained or recovered of the third party.

c. Third to the reimbursement of the State for all benefits by way of compensation or medical treatment expense paid or to be paid by the State pursuant to G.S. 127-73.

d. Fourth to the payment of any amount remaining to the guard member or personal representative.

(2) The attorney fee paid under (f)(1) shall be paid by the guard member and the State in direct proportion to the amount each shall receive

under (f)(1) c. and (f)(1) d. hereof and shall be deducted from such payments when distribution is made.

(g) In any proceeding against or settlement with the third party, every party to the claim for compensation shall have a lien to the extent of the party's interest under (f) hereof upon any payment made by the third party by reason of such injury or death, whether paid in settlement, in satisfaction of judgment, as consideration for covenant not to sue, or otherwise and such lien may be enforced against any person receiving such funds. Neither the guard member or personal representative nor the State shall make any settlement with or accept any payment from the third party without the written consent of the other and no release to or agreement with the third party shall be valid or enforceable for any purpose unless both State and guard member or personal representative join therein; provided, that this sentence shall not apply if the State is made whole for all benefits paid or to be paid by him under this Chapter less attorney's fees as provided by (f)(1) and (2) hereof and the release to or agreement with the third party is executed by the guard member. The Attorney General shall have the right on behalf of the State to reduce by compromise its claim.

(h) Institution of proceedings against or settlement with the third party, or acceptance of benefits under this Chapter, shall not in any way or manner affect any other remedy which any party to the claim for compensation may have except as otherwise specifically provided in this Chapter, and the exercise of one remedy shall not in any way or manner be held to constitute an election of remedies so as to bar the other.

"Article 9.

"Privilege of Organized Militia.

"§ 127-76. *Leaves of absence for State officers and employees.*—The Governor or his designee shall promulgate appropriate policy and regulations relating to leaves of absence for short periods of military training and for State military duty of all officers and employees of the State and its political subdivisions, including officers and employees of public educational facilities under the sponsorship of the State, without loss of pay, time or efficiency rating.

"§ 127-77. *Contributing members.*—Each organization of the national guard and naval militia may, besides its regular and active members, enroll contributing members on payment in advance by each person desiring to become such contributing member of not less than ten dollars ($10.00) per annum, which money shall be paid into the unit fund. Each contributing member shall be entitled to receive from the commanding officer thereof a certificate of membership.

"§ 127-78. *Organizations may own property; actions.*—Organizations of the national guard and naval militia shall have the right to own and keep real and personal property, which shall belong to the organization; and the commanding officer of any organization may recover for its use debts or effects belonging to it, or damages for injury to such property, action for such recovery to be brought in the name of the commanding officer thereof before any court of justice within the State having jurisdiction; and no suit or complaint pending in his name shall be abated by his ceasing to be commanding officer of the organization; but upon motion of the commander succeeding him such commander shall be admitted to prosecute the suit or complaint in like manner and with like effect as if it had been originally commenced by him.

"§ 127-79. *When families of soldiers, airmen and sailors supported by county.*—When any citizen of the State is absent on duty as a member of the national guard, State defense militia or naval militia, and his family are unable to support themselves during his absence, the board of commissioners of his county, on application, shall make towards their maintenance such allowance as may be deemed reasonable.

"Article 10.

"Care of Military Property.

"§ 127-80. *Custody of military property.*—All public military property, except when used in the performance of military duty, shall be kept in armories, or other properly designated places of deposit; and it shall be unlawful for any person charged with the care and safety of said public property to allow the same out of his custody, except as above specified.

"§ 127-81. *Other suitable storage facilities.*—All public military property of every description which may not be distributed among the units of the national guard or State defense militia according to law shall be stored and kept at suitable storage facilities as determined by the Adjutant General.

"§ 127-82. *Property kept in good order.*—Every officer and enlisted member belonging to any unit equipped with public military property shall keep and preserve such property in good order; and for neglect to do so may be punished as a court-martial may direct.

"§ 127-83. *Equipment and vehicles.*—Equipment and vehicles issued by the Department of Defense to the national guard or State defense militia shall be used solely for military purposes, except in those specific cases where nonmilitary use is authorized by the Department of Defense and/or the Governor. Necessary expense in maintaining such equipment and vehicles, not provided for by the federal government shall be a proper charge against State funds appropriated for the national guard: Provided, such expense shall be specifically authorized by the Governor and certified by the Adjutant General.

"§ 127-84. *Transfer of property.*—All officers accountable or responsible for public funds, property, or books, before being relieved from the duty, shall turn over the same according to the regulations prescribed by the Governor.

"§ 127-85. *Replacement of lost or damaged property.*—Whenever any military property issued to the national guard or State defense militia of the State shall have been lost, damaged, or destroyed, and upon report of a disinterested surveying officer it shall appear that the loss, damage, or destruction of property was due to carelessness or neglect, or that its loss, damage or destruction could have been avoided by exercise of reasonable care, the money value of such property shall be charged to the responsible officer or enlisted member, and the pay of such officers and enlisted members from both federal and State funds at any time accruing may be stopped and applied to the payment of any such indebtedness until same is discharged.

"§ 127-86. *Unlawful conversion or willful destruction of military property.*—(a) If any person shall willfully or wantonly destroy or injure, willfully retain after demand made or otherwise convert to his own use any property of the State or of the United States issued for the purpose of arming or equipping the militia of the State or if any person shall purchase any property of the State or of the United States knowing it to be unlawfully obtained, he shall be guilty of a misdemeanor and shall be punished as provided in G.S. 14-3.

(b) Any person, firm or corporation receiving in pledge or buying from any other person, firm or corporation for the purpose of resale any goods, to include arms, ammunition, explosives, equipment, clothing, supplies and materials, which may reasonably be thought to be the property of the armed forces of the United States and their reserve components or of the militia of the State of North Carolina, shall keep a register and shall enter therein a true and accurate record of each purchase, showing the name, social security number and address of the person from whom purchased, the name and address of the firm or corporation from whom purchased, together with the amount paid for each item or lot of small items, the date of purchase, the serial numbers of all items bearing serial numbers, and any other marks, brands or descriptions which will serve to identify the items purchased. The register shall be at all times open to the inspection of the public. Any person, firm or corporation failing to comply with this provision shall be guilty of a misdemeanor; and any person, firm or corporation making a false entry in such register shall be guilty of a misdemeanor.

"Article 11.

"Support of Militia.

"§ 127-87. *Requisition for federal funds.*—The Governor shall make requisition upon the Secretary of the appropriate service for such State allotment from federal funds as may be appropriate for the support of the militia.

"§ 127-88. *Local appropriations.*—Every municipality and county within the State is hereby authorized and empowered to appropriate for the benefit of any unit or units of the militia such amounts of public funds from year to year as the governing body of such municipality or county may deem wise, patriotic and expedient; and is further authorized, either alone or in connection with others, to provide heat, electricity, water, telephone service and other costs of operation and maintenance of any armory. Such appropriations may be funded by the levy of property taxes pursuant to G.S. 153A-149 and G.S. 160A-209 or by the allocation of other revenues whose use is not otherwise restricted by law.

"§ 127-89. *Allowances made to different organizations and personnel.*—(a) There may be allowed each year to the following officers, under rules and regulations prescribed by the Secretary of Military and Veterans Affairs, as follows: to general officers, and commanders of divisions, corps, groups, brigades, regiments, separate battalions, squadrons or similar organizations, not to exceed two hundred and twenty-five dollars ($225.00); to commanding officers of companies, batteries, troops, detachments and similar units not to exceed two hundred dollars ($200.00); to executive officers, adjutants, plans and training officers, logistical officers and commissioned officers in comparable assignments in divisions, corps, groups, brigades, regiments, battalions, squadrons and similar organizations, not to exceed two hundred dollars ($200.00). No officer shall be entitled to receive any part of the amounts named herein unless he has performed satisfactorily all duties required of him by law and regulations and has pursued such course of instruction as may from time to time be required.

(b) There may be allowed annually to the supply sergeant of each company, battery, troop, detachment, and similar organizations, a sum of money not to exceed one hundred dollars ($100.00) for services satisfactorily performed.

(c) There shall be allowed annually sufficient funds to be allocated by the Secretary of Military and Veterans Affairs among the federally recognized units

of the national guard and their headquarters, NCNG State Pistol Team, NCNG State Rifle Team, NCARNG Aviation Support Facility, and NCARNG Aviation Flight Activity for administrative and operating expenses, including heat, electricity, telephone, postage, office supplies and equipment, minor repairs and replacement of equipment, and such other expenses and special items of equipment not otherwise provided as may be authorized in accordance with national guard rules and regulations.

(d) All payments are to be made by the duly appointed budget officer in semiannual installments on the first day of July and the first day of January of each year; but no payment shall be made unless all training required by law and regulations is duly performed by all organizations named.

(e) The commanding officers of all organizations participating in the appropriations herein made shall render an itemized statement of all funds received from any source whatever for the support of their respective organizations in such manner and on such forms as may be prescribed by the Secretary through the Adjutant General. Failure on the part of any officer to submit promptly when due the financial statement of his organization will be sufficient cause to withhold all appropriations for such organizations.

"Article 12.

"General Provisions.

"§ 127-90. *Reports of officers.*—All officers of the national guard, the State defense militia, and the naval militia shall make such returns and reports to the Governor, Secretary of Defense, or to such officers as they may designate at such times and in such form as may from time to time be prescribed.

"§ 127-91. *Officer to give notice of absence.*—When any officer shall have occasion to be absent from his usual residence one week or more, he shall notify the officer next in command, and also his next superior officer in command, of his intended absence, and shall arrange for the officer next in command to handle and attend to all official communications.

"§ 127-92. *Orders, rules, regulations and Uniform Code of Military Justice applicable to militia when not in service of United States.*—The national guard, State defense militia and naval militia, when not in the service of the United States, shall except as to punishments, be governed by the orders, rules and regulations of the Adjutant General, regulations promulgated by the secretary of the appropriate service of the armed forces of the United States, and the Uniform Code of Military Justice, as amended from time to time.

"§ 127-93. *Commander may prevent trespass and disorder.*—The Commander upon any occasion of duty may place in arrest during the continuance thereof any person who shall trespass upon the camp ground, parade ground, armory, or other place devoted to such duty, or who shall in any way or manner interrupt or molest the orderly discharge of duty by those under arms, or shall disturb or prevent the passage of troops going to or returning from any duty. He may prohibit and prevent the sale or use of all spirituous liquors, wine, ale, beer, or cider, the holding of huckster or auction sales, and all gambling within the limits of the post, camp ground, place of encampment, parade, or drill under his command, or within such limits not exceeding one mile therefrom as he may prescribe. And he may in his discretion abate as common nuisance all such sales.

"§ 127-94. *Power of arrest in certain emergencies.*—In the event members of the North Carolina National Guard or State defense militia are called out by the Governor pursuant to the authority vested in him by the Constitution, they

shall have such power of arrest as may be reasonably necessary to accomplish the purpose for which they have been called out.

"§ 127-95. *Immunity of guardsmen from civil and criminal liability.*—(a) A member of the North Carolina National Guard or State defense militia, while acting in aid of civil authorities and in the line of duty, shall have the immunities of a law enforcement officer.

(b) Whenever members of the North Carolina National Guard or State defense militia are called upon to execute the laws, engage in disaster relief, suppress or prevent actual or threatened riot or insurrection, repel invasion, apprehend or disburse any sniper, rioters, mob or unlawful assembly, they shall have the immunities of a law enforcement officer.

(c) Any civil claim against a member of the national guard or State defense militia allegedly arising from the action or inaction of such member of the national guard or State defense militia while in line of duty shall be filed within two years of the date of the occurrence or forever barred.

"§ 127-96. *Organizing company without authority.*—If any person shall organize a military company, or drill or parade under arms as a military body, except under the militia laws and regulations of the State, or shall exercise or attempt to exercise the power or authority of a military officer in this State, without holding a commission from the Governor, he shall be guilty of a misdemeanor.

"§ 127-97. *Placing name on muster roll wrongfully.*—If any officer of the militia of the State shall knowingly or willfully place, or cause to be placed, on any muster roll the name of any person not regularly or lawfully enlisted, or the name of any enlisted man who is dead or who has been discharged, transferred, or has lost membership for any cause whatsoever, or who has been convicted of any infamous crime, he shall be guilty of a misdemeanor.

"§ 127-98. *Protection of uniform.*—(a) The wearing of any military uniform of the United States Government by members of the militia shall be pursuant to applicable regulations promulgated by the respective armed services of the United States and regulations of the Adjutant General of North Carolina not inconsistent with federal uniform regulations.

(b) The wearing of any military uniform of the North Carolina State Government by members of the militia shall be pursuant to applicable regulations promulgated by the Adjutant General of North Carolina.

(c) Members of the militia who violate the regulations referred to in (a) and (b) above shall, upon conviction by a court-martial, be punished by a fine not exceeding fifty dollars ($50.00) or by imprisonment not exceeding 30 days, or by both fine and imprisonment, for each offense.

(d) Persons not subject to courts-martial who violate the regulations referred to in (a) and (b) above may be charged and tried in the State courts and upon conviction shall be punished as provided in (c) above.

"§ 127-99. *Upkeep of properties.*—There shall be paid from the appropriations from the national guard such amounts as may be necessary for the maintenance, upkeep, and improvement of State military properties and facilities. Provided, such expenditures shall be approved and authorized by the Governor.

"§ 127-100. *When officers authorized to administer oaths.*—Officers of the national guard are authorized to administer oaths in all circumstances pertaining to any military matter whenever an oath is required.

"Article 13.

"Armories.

"§ 127-101. *Definitions.*—As used in this Article, the following terms mean:

(1) Armory: Any building or building complex and related facilities, including the lands for them, which are intended to be utilized by the militia for training, administration, storage, and the maintenance and servicing of equipment.

(2) Armory Site: That land, meeting federal and State specifications, upon which an armory may be constructed.

(3) Department: The North Carolina Department of Military and Veterans Affairs.

(4) Facilities: Those adjuncts to an armory, including but not limited to yards, storage buildings, sheds, ramps, racks, target ranges, furniture, fixtures and other equipment and installations.

(5) Funds: Any monies appropriated by any municipality, county, the State or the United States Government and made available for the purpose of acquiring armory sites or constructing or repairing any armory, warehouse, or other facility for the use of any unit or for any other purpose in connection with the housing, training, instruction or promotion of the interest of any unit.

(6) Municipality: Any incorporated city, town or village.

(7) Unit: Any organizational entity of the militia.

"§ 127-102. *Authority to foster development of armories and facilities.*—The Department of Military and Veterans Affairs is authorized and empowered to foster the development in North Carolina of adequate armories and other necessary facilities for the proper housing, instruction, training and administration of all units and facilities necessary for the proper protection, care, maintenance, repair, issue and upkeep of public and military property issued to or for the use of any unit.

"§ 127-103. *Powers of Department specified.*—The Department of Military and Veterans Affairs is further authorized and empowered:

(1) To act as an agency of the State of North Carolina for the purpose of setting up and administering any statewide plan for the acquisition of armories and armory sites, for the construction and maintenance of armories and for providing facilities which are now or may be necessary in order to comply with any federal law and in order to receive, administer and disburse any funds which may be provided by act of Congress for such purpose;

(2) As such agency of the State of North Carolina, to promulgate statewide plans for the acquisition of armories and armory sites, for the construction and maintenance of armories and such other facilities as may be found desirable or necessary to meet the requirements and receive the benefits of any federal legislation with respect thereto;

(3) To receive and administer any funds which may be appropriated by any act of Congress or otherwise for the acquisition of armories and armory sites; for the construction and maintenance of armories and for providing facilities, which may at any time become available for such purposes;

(4) To receive and administer any other funds which may be available in furtherance of any activity in which the Department of Military and Veterans Affairs is authorized and empowered to engage under the provisions of this Article; and

(5) To adopt such rules and regulations as may be necessary to carry out the intent and purpose of this Article.

"§ 127-104. *Power to acquire land, make contracts, etc.*—In furtherance of the duties, power, and authority given herein, the Department of Military and Veterans Affairs is authorized and empowered within the limitations of G.S. 143-341 to accept and hold title to real property in the name of the State of North Carolina, and to enter in contracts and do any and all things necessary to carry out any statewide programs for the acquisition of armories and armory sites, the construction and maintenance of armories, and to provide facilities which may be considered by it as necessary for any unit and which may be authorized by act of Congress or otherwise.

"§ 127-105. *Counties and municipalities may lease, convey or acquire property for use as armory.*—Every municipality and county of the State of North Carolina is hereby authorized and empowered to lease or convey by deed to the State of North Carolina:

(1) Any existing armory and the land adjacent thereto;

(2) Any real property suitable for the construction of an armory, warehouse or other facility; and

(3) Any real property suitable for use in the administration, instruction and training of any unit.

Every municipality and county is further authorized and empowered to acquire any real property which may be suitable for use as an armory or for the construction of an armory thereon, or for any other purpose of a unit. The contracting of an indebtedness and the expenditure of public funds by any municipality or county to comply with the provisions of this Article are hereby declared to be a necessary expense and for a public purpose.

"§ 127-106. *Prior conveyances validated.*—All conveyances of real property made before April 20, 1949, by any municipality or county of the State of North Carolina to the State of North Carolina for armory purposes are hereby validated and ratified in every respect.

"§ 127-107. *Appropriations to supplement available funds authorized.*—Any city or town and any county in the State, separately or jointly, may make appropriations to supplement available federal or State funds to be used for the construction of armory facilities for the North Carolina National Guard. Appropriations made under authority of this Article shall be in such amounts and in such proportions as may be deemed adequate and necessary by the governing body of the county and/or municipality desiring to participate in the armory construction program.

"§ 127-108. *Local financial support.*—Each county and city in this State is authorized to make appropriations for the purposes of this Article and to fund them by levy of property taxes pursuant to G.S. 153A-149 and G.S. 160A-209 and by the allocation of other revenues whose use is not otherwise restricted by law.

"§ 127-109. *Unexpended portion of State appropriation.*—The unexpended portion of any appropriation from the General Fund of the State for the purposes set out in this Article, remaining at the end of any biennium, shall not revert to the General Fund of the State, but shall constitute part of a permanent fund to be expended from time to time in the manner and for the purposes set out in this Article.

"Article 14.

"National Guard Mutual Assistance Compact.

"§ 127-110. *Purposes.*—(a) Provide for mutual aid among the party states in the utilization of the national guard to cope with emergencies.

(b) Permit and encourage a high degree of flexibility in the deployment of national guard forces in the interest of efficiency.

(c) Maximize the effectiveness of the national guard in those situations which call for its utilization under this compact.

(d) Provide protection for the rights of national guard personnel when serving in other states on emergency duty.

"§ 127-111. *Entry into force and withdrawal.*—(a) This compact shall enter into force when enacted into law by any two states. Thereafter, this compact shall become effective as to any other state upon its enactment thereof.

(b) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the governor of the withdrawing state has given notice in writing of such withdrawal to the governors of all other party states.

"§ 127-112. *Definitions; mutual aid.*—(a) As used in this Article:

(1) 'Emergency' means an occurrence or condition, temporary in nature, in which police and other public safety officials and locally available national guard forces are, or may reasonably be expected to be, unable to cope with substantial and imminent danger to the public safety.

(2) 'Requesting state' means the state whose governor requests assistance in coping with an emergency.

(3) 'Responding state' means the state furnishing aid, or requested to furnish aid.

(b) Upon request of the governor of a party state for assistance in an emergency, the governor of a responding state shall have authority under this compact to send without the borders of his state and place under the temporary command of the appropriate national guard or other military authorities of the requesting state all or any part of the national guard forces of his state as he may deem necessary, and the exercise of his discretion in this regard shall be conclusive.

(c) The governor of a party state may withhold the national guard forces of his state from such use and recall any forces or part or member thereof previously deployed in a requesting state.

(d) Whenever national guard forces of any party state are engaged in another state in carrying out the purposes of this compact, the members thereof so engaged shall have the same powers, duties, rights, privileges and immunities as members of national guard forces in such other state. The requesting state shall save members of the national guard forces of responding states harmless from civil liability for acts or omissions in good faith which occur in the performance of their duty while engaged in carrying out the purposes of this compact, whether the responding forces are serving the requesting state within its borders or are in transit to or from such service.

(e) Subject to the provisions of subsections (f), (g) and (h) of this section, all liability that may arise under the laws of the requesting state, the responding state, or a third state on account of or in connection with a request for aid, shall be assumed and borne by the requesting state.

(f) Any responding state rendering aid pursuant to this compact shall be reimbursed by the requesting state for any loss or damage to, or expense incurred

in the operation of any equipment answering a request for aid, and for the cost of the materials, transportation and maintenance of national guard personnel and equipment incurred in connection with such request: Provided, that nothing herein contained shall prevent any responding state from assuming such loss, damage, expense or other cost.

(g) Each party state shall provide, in the same amounts and manner as if they were on duty within their state, for the pay and allowances of the personnel of its national guard units while engaged without the state pursuant to this compact and while going to and returning from such duty pursuant to this compact. Such pay and allowances shall be deemed items of expense reimbursable under subsection (f) by the requesting state.

(h) Each party state providing for the payment of compensation and death benefits to injured members and the representatives of deceased members of its national guard forces in case such members sustain injuries or are killed within their own state, shall provide for the payment of compensation and death benefits in the same manner and on the same terms in case such members sustain injury or are killed while rendering aid pursuant to this compact. Such compensation and death benefits shall be deemed items of expense reimbursable pursuant to subsection (f) of this section.

"§ 127-113. *Delegation.*—Nothing in this compact shall be construed to prevent the governor of a party state from delegating any of his responsibilities or authority respecting the national guard, provided that such delegation is otherwise in accordance with law. For purposes of this compact, however, the governor shall not delegate the power to request assistance from another state.

"§ 127-114. *Limitations.*—Nothing in this compact shall:

(1) Expand or add to the functions of the national guard, except with respect to the jurisdictions within such functions may be performed;

(2) Authorize or permit national guard units to be placed under the field command of any person not having the military or national guard rank or status required by law for the field command position in question.

"§ 127-115. *Construction and severability.*—This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating herein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

"§ 127-116. *Payment of liability to responding state.*—Upon presentation of a claim therefor by an appropriate authority of a state whose national guard forces have aided this State pursuant to the compact, any liability of this State pursuant to G.S. 127-112(f) of this compact shall be paid out of the General Fund.

"§ 127-117. *Status, rights and benefits of forces engaged pursuant to compact.*—In accordance with G.S. 127-112(h) of this compact, members of the national guard forces of this State shall be deemed to be in State service at all

times when engaged pursuant to this compact, and shall be entitled to all rights and benefits provided pursuant to the laws of this State.

"§ 127-118. *Injury or death while going to or returning from duty.*—All benefits to be paid under G.S. 127-112(h) of the foregoing compact shall include any injury or death sustained while going to or returning from such duty.

"§ 127-119. *Authority of responding state required to relieve from assignment or reassign officers.*—Nothing in the foregoing compact shall authorize or permit state officials or military officers of the requesting state to relieve from assignment or reassign officers or noncommissioned officers of national guard units of the responding state without authorization by the appropriate authorities of the responding state."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1975.

H. B. 886 **CHAPTER 605**

AN ACT TO BRING PERSONS SIXTY-FIVE YEARS OF AGE OR OLDER WITHIN THE PROVISIONS OF THE MINIMUM WAGE ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 95-86(3), as it appears in the 1974 Cumulative Supplement to Volume 2C of the General Statutes, is amended by changing the semicolon at the end of subdivision j. to a period and deleting all of subdivision k.

Sec. 2. This act shall become effective October 1, 1975.

In the General Assembly read three times and ratified, this the 16th day of June, 1975.

H. B. 892 **CHAPTER 606**

AN ACT AUTHORIZING STATE-SUPPORTED INSTITUTIONS OF HIGHER EDUCATION, COMMUNITY COLLEGES, INDUSTRIAL EDUCATION CENTERS AND TECHNICAL INSTITUTES TO PERMIT NORTH CAROLINA RESIDENTS AT LEAST SIXTY-FIVE YEARS OF AGE TO ATTEND CLASSES ON A SPACE AVAILABLE BASIS WITHOUT PAYMENT OF TUITION.

The General Assembly of North Carolina enacts:

Section 1. As used in this act, "tuition" shall mean the amount charged for registering for a credit hour of instruction and shall not be construed to mean any other fees or charges or costs of text books.

Sec. 2. State-supported institutions of higher education, community colleges, industrial education centers and technical institutes, are hereby authorized to permit legal residents of North Carolina who have attained the age of 65 to attend classes for credit or noncredit purposes on a space available basis without the required payment of tuition; provided, however, that such persons meet admission and other standards deemed appropriate by the educational institution.

Sec. 3. The Board of Governors of the University of North Carolina and the State Board of Education shall each, with respect to the institutions

governed by it, promulgate rules and regulations necessary for the implementation of the provisions of this act.

Sec. 4. Persons attending classes under the provisions of this act, on a space available basis without payment of tuition, shall not be counted in the computation of enrollment for funding purposes.

Sec. 5. The officials of such institutions charged with administration of this act may require such proof as they deem necessary to insure that the person applying to the institution is eligible for the benefits provided by this act.

Sec. 6. Any applicant who wilfully misrepresents his eligibility for the tuition benefits provided under this act, or any person who knowingly aids or abets such applicant in misrepresenting his eligibility for such benefits, shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined not more than fifty dollars ($50.00) or imprisoned for not more than 30 days, or both.

Sec. 7. This act shall take effect upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1975.

H. B. 910 CHAPTER 607

AN ACT TO REPEAL G.S. 58-237.2 RELATING TO THE MINIMUM MEMBERSHIP REQUIRED FOR A BURIAL ASSOCIATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-237.2 is hereby repealed in its entirety.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1975.

H. B. 918 CHAPTER 608

AN ACT TO AMEND G.S. 115-157 TO ALLOW PUBLIC SCHOOL TEACHERS EMPLOYED ON A 10-MONTH BASIS TO BE PAID IN 12 MONTHLY INSTALLMENTS INSTEAD OF 10 MONTHLY INSTALLMENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115-157(1) is amended by adding at the end of the first sentence thereof the following:

"Provided, that any individual teacher may be paid in 12 monthly installments if the teacher so requests on or before the first day of the school year. Such request shall be filed in the administrative unit which employs the teacher. The payment of the annual salary in 12 installments instead of 10 shall not increase or decrease said annual salary nor in any other way alter the contract made between the teacher and the said administrative unit; nor shall such payment apply to any teacher who is employed for a period of less than 10 months."

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 16th day of June, 1975.

H. B. 925

CHAPTER 609

AN ACT TO PROVIDE ADDITIONAL METHODS OF PERSONAL SERVICE BY REGISTERED OR CERTIFIED MAIL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1A-1, Rule 4(j) is amended as follows:

(1) By adding a new sub-subdivision c. to subdivision (1) as follows:

"c. By mailing a copy of the summons and of the complaint, registered or certified mail, return receipt requested, addressed to the party to be served, and delivering to the addressee only."

(2) By adding the following words at the end of subdivision (3): "or by mailing a copy of the summons and of the complaint, registered or certified mail, return receipt requested, addressed to the Attorney General or to a deputy or assistant attorney general."

(3) By adding the following at the end of sub-subdivision (4)a.: "or by mailing a copy of the summons and of the complaint, registered or certified mail, return receipt requested, addressed to said process agent."

(4) By adding the following at the end of sub-subdivision (4)c.: "or by mailing a copy of the summons and of the complaint, registered or certified mail, return receipt requested, addressed to the Attorney General, or to a deputy or assistant attorney general."

(5) By adding the following at the end of sub-subdivision (5)a.: "or by mailing a copy of the summons and of the complaint, registered or certified mail, return receipt requested, addressed to its mayor, city manager or clerk."

(6) By adding the following at the end of sub-subdivision (5)b.: "or by mailing a copy of the summons and of the complaint, registered or certified mail, return receipt requested, addressed to its county manager or to the chairman, clerk, or any member of this board of commissioners for such county."

(7) By adding the following at the end of sub-subdivision (5)c.: "or (iii) by mailing a copy of the summons and of the complaint, registered or certified mail, return receipt requested, addressed to the officer, director, agent, or attorney in fact as specified in (i) and (ii)."

(8) By adding the following at the end of sub-subdivision (5)d.: "or by mailing a copy of the summons and of the complaint, registered or certified mail, return receipt requested, addressed to the Attorney General or any deputy or assistant attorney general of the State of North Carolina."

(9) By adding a new sub-subdivision c. to subdivision (6) to read as follows:

"c. By mailing a copy of the summons and of the complaint, registered or certified mail, return receipt requested, addressed to the officer, director or agent to be served as specified in paragraphs a. and b."

(10) By inserting in sub-subdivision (7)a. between the words "in its behalf" and "or by leaving copies thereof" the words "or by mailing a copy of the summons and of the complaint, registered or certified mail, return receipt requested, addressed to any general partner, or to any attorney in fact or agent authorized by appointment or by law to be served or to accept service of process in its behalf".

(11) By adding a new sub-subdivision c. to subdivision (8) to read as follows:

"c. By mailing a copy of the summons and of the complaint, registered or certified mail, return receipt requested, addressed to the officer, director, agent or member of the governing body to be served as specified in paragraphs a. and b."

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 16th day of June, 1975.

H. B. 937 CHAPTER 610

AN ACT TO PROVIDE FOR THE USE OF THE MOST RECENT SAFETY STANDARDS IN THE LIQUIFIED PETROLEUM GASES LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 119-49 as the same appears in the 1974 Replacement to Volume 3B of the General Statutes is hereby rewritten to read as follows:

"§ 119-49. *Minimum standards adopted; power of Board of Agriculture to make changes or additions; regulation by political subdivisions.*—The standards as set forth in Pamphlet No. 58 of the National Fire Protection Association entitled THE STORAGE AND HANDLING OF LIQUIFIED PETROLEUM GASES dated 1974, and Pamphlet No. 54 of the National Fire Protection Association entitled AMERICAN NATIONAL STANDARD, NATIONAL FUEL GAS CODE dated 1974, and the rules and regulations promulgated by the North Carolina State Board of Agriculture are hereby adopted as is set forth herein, as safety standards for the design, construction, location, installation and operation of equipment and facilities used in handling, storing, and distribution of liquified petroleum gas, subject, always, to the power and authority of the North Carolina State Board of Agriculture to adopt, reject, or to add to any provisions set forth in said pamphlets as above entitled after a public hearing held upon 15 days' notice. After adoption by the Board of Agriculture of such provision or provisions as it may consider necessary in furtherance of the purposes of this Article, such provision or provisions shall become a part of this safety code to the same extent as if written in this Article.

Any municipality or political subdivision may adopt and enforce a safety code dealing with the handling of liquified petroleum gas, which code shall conform with the code adopted by the State Board of Agriculture, and the inspection service rendered by such municipality or political subdivision shall conform to the requirements of the inspection service rendered by the State Board of Agriculture in the enforcement of this Article."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1975.

H. B. 952 **CHAPTER 611**

AN ACT TO AMEND PART 5 OF ARTICLE 1 OF CHAPTER 106 OF THE GENERAL STATUTES, RELATING TO THE COLLECTION AND PUBLICATION OF AGRICULTURE STATISTICS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 106-24, as the same appears in Volume 3A of the General Statutes, is amended by striking from the last line thereof "106-26" and inserting in lieu thereof "106-26.2".

Sec. 2. G.S. 106-25, as the same appears in Volume 3A of the General Statutes, is amended by striking from the last line thereof the words "three acres" and substituting in lieu thereof "10 acres".

Sec. 3. Article 1 of Chapter 106 is further amended by inserting a new section, to be designated 106-26.2, and reading as follows:

"§ 106-26.2. *Alternative method for acquiring data for State Farm Census by sampling.*—In order to encourage maximum efficiency in the collection, summarization and publication of statistical information related to land use and agriculture in the various counties, the Department of Agriculture may designate certain counties in which sampling can be used for acquiring data for the State Farm Census rather than making a complete canvass of all tracts of land in the county. For counties designated to be sampled, the board of county commissioners shall provide and transmit annually, to the department, by December 1, records of the names, addresses and acres in each tract for each landowner in the county having 10 or more acres of land. The board of commissioners may appoint any person to compile and provide these records. Upon receipt of these records, the said department shall pay to the county commissioners of the designated counties, from appropriations made to the Department of Agriculture, the sum of three cents (3¢) for each record received, provided, the record contains the name, address and tract acreage. The said department shall be responsible for developing survey procedures for conducting the census and for all activities related to data collection, editing, summarization, and publication of statistical information related to each county's land use and agriculture. The information required and obtained shall be held confidential by all persons having any connection therewith and by the Department of Agriculture."

Sec. 4. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 16th day of June, 1975.

H. B. 957 **CHAPTER 612**

AN ACT TO AMEND G.S. 130-233 TO PROVIDE CERTIFICATION FOR AMBULANCE ATTENDANTS AND EMERGENCY MEDICAL TECHNICIANS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-233 as it appears in the 1974 Cumulative Supplement to Volume 3C of the General Statutes is hereby rewritten to read as follows:

"§ 130-233. *Certified personnel required.*—(a) Every ambulance, except those specifically excluded from the operation of this Article, when operated on an

emergency mission in this State shall be occupied by at least one certified emergency medical technician who shall be responsible for the medical aspects of the mission prior to arrival at the hospital and assuming no other person of higher certification or license is available, and one certified ambulance attendant who is responsible for the operation of the vehicle and rendering assistance to the emergency medical technician during the duration of the mission. The North Carolina Medical Care Commission shall adopt regulations setting forth exemptions to this requirement applicable to situations where exemptions are considered by the department to be in the public interest.

(b) The North Carolina Medical Care Commission shall adopt regulations setting forth the qualifications required for certification of ambulance attendants and emergency medical technicians. Such regulations shall be effective when approved by the commission.

(c) A person desiring certification as emergency medical technician or as ambulance attendant shall apply to the commission using forms prescribed by that agency. Upon receipt of such application the commission or its representatives shall examine the applicant for emergency medical technician by written examination and the applicant for ambulance attendant by written or oral (if requested) examination and if it determines the applicant meets the examination requirements of its regulations duly adopted pursuant to this Article, it shall issue a certificate to the applicant. Emergency medical technician's and ambulance attendant's certificates so issued shall be valid for a period not to exceed two years and may be renewed after reexamination if the holder meets the requirements set forth in the regulations of the commission. The commission is authorized to cancel a certificate so issued at any time it determines that the holder no longer meets the qualifications prescribed for emergency medical technicians or for ambulance attendants.

(d) Duly authorized representatives of the department may issue temporary certificates with or without examination when it finds that such will be in the public interest. Temporary certificates shall be valid for a period not exceeding 90 days."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1975.

H. B. 964 CHAPTER 613

AN ACT TO CORRECT CERTAIN INADVERTENT ERRORS IN THE GENERAL STATUTES RESULTING FROM AMENDMENTS MADE BY CHAPTER 1262 OF THE SESSION LAWS OF 1973.

The General Assembly of North Carolina enacts:

Section 1. In each case where the words "Department of Natural and Economic Resources" appear in Articles 8, 10 and 11 of Chapter 113 of the General Statutes of North Carolina, the same are hereby deleted and the words "Wildlife Resources Commission" are inserted in lieu thereof.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1975.

H. B. 972 **CHAPTER 614**

AN ACT TO AMEND ARTICLE 12 OF CHAPTER 106 OF THE GENERAL STATUTES, THE NORTH CAROLINA FOOD, DRUG AND COSMETIC ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 106-121(12) is amended as follows:

(a) by inserting in line 3 of subdivision (a) the words "and effectiveness" after the word "safety".

(b) by inserting in line 3 of subdivision (a) the words "and effective" after the word "safe".

(c) by inserting in line 2 of subdivision (b) the words "and effectiveness" after the word "safety".

Sec. 2. G.S. 106-121 is further amended by adding at the end thereof the following:

"(18) The term 'counterfeit drug' means a drug which, or the container or labeling of which, without authorization, bears the trademark, trade name or other identifying mark, imprint, or device, or any likeness thereof, of a drug manufacturer, processor, packer or distributor other than the person or persons who in fact manufactured, processed, packed or distributed such drug and which thereby falsely purports or is represented to be the product of, or to have been packed or distributed by, such other drug manufacturer, processor, packer or distributor.

(19) The term 'consumer commodity' except as otherwise specifically provided by this subsection, means any food, drug, device, or cosmetic as those terms are defined by this act. Such term does not include:

(a) any tobacco or tobacco product; or

(b) any commodity subject to packaging or labeling requirements imposed under the North Carolina Pesticide Law of 1971, Article 52, Chapter 143, of the General Statutes of North Carolina, or the provisions of the eighth paragraph under the heading 'Bureau of Animal Industry' of the act of March 4, 1913 (37 Stat. 832-833; 21 U.S.C. 151-157) commonly known as the Virus-Serum Toxin Act; or

(c) any drug subject to the provisions of G.S. 106-134(11) or G.S. 106-134.1 of this act, or Section 503(b)(1) or 506 of the Federal Act; or

(d) any beverage subject to or complying with packaging or labeling requirements imposed under the Federal Alcohol Administration Act (27 U.S.C., *et seq.*); or

(e) any commodity subject to the provisions of the North Carolina Seed Law, Article 31, Chapter 106 of the General Statutes of North Carolina.

(20) The term 'principal display panel' means that part of a label that is most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale.

(21) The term 'package' means any container or wrapping in which any consumer commodity is enclosed for use in the delivery or display of that consumer commodity to retail purchasers, but does not include:

(a) shipping containers or wrappings used solely for the transportation of any consumer commodity in bulk or in quantity to manufacturers, packers, or processors, or to wholesale or retail distributors thereof; or

(b) shipping containers or outer wrappings used by retailers to ship or deliver any commodity to retail customers if such containers and wrappings bear no printed matter pertaining to any particular commodity.

(22) The term 'pesticide chemical' means any substance which, alone, in chemical combination, or in formulation with one or more other substances is a 'pesticide' within the meaning of the North Carolina Pesticide Law of 1971, Article 52, Chapter 143, of the General Statutes of North Carolina, or the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 135 *et seq.*), and which is used in the production, storage, or transportation of raw agricultural commodities.

(23) The term 'raw agricultural commodity' means any food in its raw or natural state, including all fruits that are washed, colored, or otherwise treated in their unpeeled natural form prior to marketing.

(24) The term 'food additive' means any substance, the intended use of which results or may be reasonably expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food (including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting or holding food; and including any source of radiation intended for any such use) if such substance is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures (or, in the case of a substance used in a food prior to January 1, 1958, through either scientific procedures or experience based on common use in food) to be safe under the conditions of its intended use; except that such term does not include:

(a) a pesticide chemical in or on a raw agricultural commodity; or

(b) a pesticide chemical to the extent that it is intended for use or is used in the production, storage, or transportation of any raw agricultural commodity; or

(c) a color additive; or

(d) any substance used in accordance with a sanction or approval granted prior to the enactment of the Food Additives Amendment of 1958, pursuant to the Federal Act; the Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*) or the Meat Inspection Act of March 4, 1907 (34 Stat. 1260), as amended and extended (21 U.S.C. 71 *et seq.*).

(25) The term ' color additive' means a material which:

(a) is a dye, pigment, or other substance made by a process of synthesis or similar artifice, or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity, from a vegetable, animal, mineral, or other source; or

(b) when added or applied to a food, drug, or cosmetic, or to the human body or any part thereof, is capable (alone or through reaction with other substance) of imparting color thereto; Provided, that such term does not apply to any pesticide chemical, soil or plant nutrient, or other agricultural chemical solely because of its effect in aiding, retarding, or otherwise affecting, directly or indirectly, the growth or other natural physiological process of produce of the soil and thereby affecting its color, whether before or after harvest.

(26) The term 'color' includes black, white, and intermediate grays.

(27) The term 'practitioner' means a physician, dentist, veterinarian or other person licensed, registered or otherwise permitted to distribute, dispense,

conduct research with respect to or to administer a drug so long as such activity is within the normal course of professional practice or research."

Sec. 3. G.S. 106-122 is amended by adding at the end thereof the following:

"(12) The sale at retail of any food for which a definition and standard of identity for enrichment with vitamins, minerals or other nutrients has been promulgated by the board, unless such food conforms to such definition and standard, or has been specifically exempted from same by the board.

(13) The distribution in commerce of a consumer commodity, as defined in this Article, if such commodity is contained in a package, or if there is affixed to that commodity a label, which does not conform to the provisions of this Article and regulations promulgated under authority of this Article; Provided, however, that this prohibition shall not apply to persons engaged in business as wholesale or retail distributors of consumer commodities except to the extent that such persons:

(a) are engaged in the packaging or labeling of such commodities; or

(b) prescribe or specify by any means the manner in which such commodities are packaged or labeled.

(14) The using by any person to his own advantage, or revealing, other than to the Commissioner or authorized officers or employees of the department, or to the courts when relevant in any judicial proceeding under this Article, any information acquired under authority of this Article concerning any method or process which as a trade secret is entitled to protection.

(15) In the case of a prescription drug distributed or offered for sale in this State, the failure of the manufacturer, packer, or distributor thereof to maintain for transmittal, or to transmit, to any practitioner licensed by applicable law to administer such drug within the normal course of professional practice, who makes written request for information as to such drug, true and correct copies of all printed matter which is required to be included in any package in which that drug is distributed or sold, or such other printed matter as is approved under the Federal Act. Nothing in this paragraph shall be construed to exempt any person from any labeling requirement imposed by or under other provisions of this Article.

(16) (a) Placing or causing to be placed upon any drug or device or container thereof, with intent to defraud, the trade name or other identifying mark, or imprint of another or any likeness of any of the foregoing; or

(b) Selling, dispensing, disposing of or causing to be sold, dispensed or disposed of, or concealing or keeping in possession, control or custody, with intent to sell, dispense or dispose of, any drug, device or any container thereof, with knowledge that the trade name or other identifying mark or imprint of another or any likeness of any of the foregoing has been placed thereon in a manner prohibited by subsection (a) of this section; or

(c) Making, selling, or disposing of; causing to be made, sold or disposed of; keeping in possession, control or custody; or concealing any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling thereof so as to render such drug a counterfeit drug.

(17) The doing of any act which causes a drug to be a counterfeit drug, or the sale or dispensing, or the holding for sale or dispensing of a counterfeit drug.

(18) Dispensing or causing to be dispensed a different drug in place of the drug ordered or prescribed without the express permission of the person ordering or prescribing.

(19) The acquiring or obtaining or attempting to acquire or obtain any drug subject to the provisions of G.S. 106-134.1 (1)(c) or (d) by fraud, deceit, misrepresentation, or subterfuge, or by forgery or alteration of a prescription, or by the use of a false name, or the giving of a false address."

Sec. 4. G.S. 106-122(6) which presently reads "(6) The refusal to permit entry or inspection, or refusal to permit the taking of a sample, as authorized by G.S. 106-140." is rewritten to read as follows:

"(6) The refusal to permit entry or inspection, or to permit the taking of a sample, or to permit access to or copying of any record as authorized by G.S. 106-140."

Sec. 5. G.S. 106-122(9) is amended by adding the words "or adulterated" at the end thereof.

Sec. 6. G.S. 106-124(a) which presently reads "(a) Any person who violates any of the provisions of G.S. 106-122 shall be guilty of a misdemeanor and shall on conviction thereof be subject to imprisonment in the county jail for not more than six months or a fine of not more than two hundred dollars ($200.00), or both such imprisonment and fine; but if the violation is committed after a conviction of such person under this section has become final, such person shall be subject to imprisonment in the county jail for not more than 12 months, or a fine of not more than four hundred dollars ($400.00), or both such imprisonment and fine." is rewritten to read as follows:

"(a) Any person, firm or corporation violating any provision of this law, or any regulation of the Board adopted pursuant to this law, shall be guilty of a misdemeanor, and for each violation shall be fined not less than one hundred dollars ($100.00) nor more than one thousand dollars ($1,000), or shall be imprisoned for not more than 60 days, or both. In addition, if any person continues to violate or further violates any provision of this law after written notice from the Commissioner, or his duly designated agent, the court may determine that each day during which the violation continued or is repeated constitutes a separate violation subject to the foregoing penalties."

Sec. 7. G.S. 106-125(a) is amended as follows:

(a) by deleting the word "or" immediately after the word "device" on line 3;

(b) by inserting a comma after the word "device" on line 3;

(c) by adding the words "or consumer commodity" after the word "cosmetics" on line 3.

Sec. 8. G.S. 106-125(a) is further amended by inserting the clause "or is in violation of G.S. 106-131 or G.S. 106-135 of this Article," after the word "Article" on line 4.

Sec. 9. G.S. 106-125(b) is amended by inserting the clause "or to be in violation of G.S. 106-131 or G.S. 106-135 of this Article," after the word "misbranded" on line 2.

Sec. 10. G.S. 106-126 is rewritten to read as follows:

"It shall be the duty of the solicitors and district attorneys of this State to promptly prosecute all violations of this Article."

Sec. 11. G.S. 106-128 is amended by deleting the words "Secretary of the United States Department of Agriculture" in line 11 and inserting in lieu

thereof the words "Commissioner of the Federal Food and Drug Administration".

Sec. 12. G.S. 106-128 is amended by adding a paragraph at the end thereof as follows:

"Temporary permits now or hereafter granted for interstate shipment of experimental packs of food varying from the requirements of federal definitions and standards of identity are automatically effective in this State under the conditions provided in such permits. In addition, the Board of Agriculture may cause to be issued additional permits where they are necessary to the completion or conclusiveness of an otherwise adequate investigation and where the interests of consumers are safeguarded. Such permits are subject to the terms and conditions the Board of Agriculture may prescribe by regulation."

Sec. 13. G.S. 106-129(1)(b) which presently reads "b. If it bears or contains any added poisonous or added deleterious substance which is unsafe within the meaning of G.S. 106-132; or" is rewritten to read as follows:

"b. 1. If it bears or contains any added poisonous or added deleterious substance, other than one which is I. a pesticide chemical in or on a raw agricultural commodity; II. a food additive; or III. a color additive, which is unsafe within the meaning of G.S. 106-132; or 2. if it is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe within the meaning of G.S. 106-132; or 3. if it is or it bears or contains any food additive which is unsafe within the meaning of G.S. 106-132; provided, that where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or tolerance prescribed under G.S. 106-132 of this Article, and such raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating, or milling, the residue of such pesticide chemical remaining in or on such processed food shall, notwithstanding the provisions of G.S. 106-132 and clause 3. of this section, not be deemed unsafe if such residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice, and the concentration of such residue in the processed food when ready-to-eat, is not greater than the tolerance prescribed for the raw agricultural commodity; or".

Sec. 14. G.S. 106-129(1) is further amended to add the following subsection:

"g. If it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect pursuant to G.S. 106-132 of this Article."

Sec. 15. G.S. 106-129(3) which presently reads "(3) If it is confectionery and it bears or contains any alcohol or nonnutritive article or substance except harmless coloring, harmless flavoring, harmless resinous glaze not in excess of four-tenths of one per centum, harmless natural gum, and pectin; provided, that this subdivision shall not apply to any confectionery by reason of its containing less than one half of one per centum by volume of alcohol derived solely from the use of flavoring extracts, or to any chewing gum by reason of its containing harmless nonnutritive masticatory substances" is rewritten to read as follows:

"(3) If it is confectionery, and:

(a) has partially or completely imbedded therein any nonnutritive object: Provided, that this clause shall not apply in the case of any nonnutritive object if, in the judgment of the Board of Agriculture as provided by regulations, such

object is of practical functional value to the confectionery product and would not render the product injurious or hazardous to health; or

(b) bears or contains any alcohol other than alcohol not in excess of one-half of one per centum (1/2 of 1%) by volume derived solely from the use of flavoring extracts; or

(c) bears or contains any nonnutritive substance: Provided, that this clause shall not apply to a safe nonnutritive substance which is in or on confectionery by reason of its use for some practical functional purpose in the manufacture, packaging, or storing of such confectionery if the use of the substance does not promote deception of the consumer or otherwise result in adulteration or misbranding in violation of any provision of this act: and provided further, that the Board may, for the purpose of avoiding or resolving uncertainty as to the application of this clause, issue regulations allowing or prohibiting the use of particular nonnutritive substances."

Sec. 16. G.S. 106-129(4) which presently reads "(4) If it bears or contains a coal-tar color other than one from a batch which has been certified by the United States Department of Agriculture." is rewritten to read as follows:

"(4) If it is or bears or contains any color additive which is unsafe within the meaning of G.S. 106-132."

Sec. 17. G.S. 106-130(1) which presently reads "(1) If its labeling is false or misleading in any particular." is rewritten to read as follows:

"(1)(a) If its labeling is false or misleading in any particular, or

(b) If its labeling or packaging fails to conform with the requirements of G.S. 106-139 and G.S. 106-139.1 of this Article."

Sec. 18. G.S. 106-130(5)(b) is amended by striking the colon after the word "count" at the end of line 2, inserting a comma (,) in lieu thereof and the clause "which statement shall be separately and accurately stated in a uniform location upon the principal display panel of the label:".

Sec. 19. G.S. 106-130(11), which presently reads "(11) If it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears a label stating that fact: Provided, that to the extent that compliance with the requirements of this subdivision is impracticable, exemptions shall be established by regulations promulgated by the Board of Agriculture: Provided further, that for the purpose of complying with the provisions of this Article, as it pertains to bottled soft drinks, either the bottle crown or the crown together with the blown-in-the-bottle or annealed-to-the-bottle statements, now in usual and common use in this State, shall be deemed sufficient labeling and no paper label shall be necessary." is rewritten in its entirety to read:

"(11) If it bears or contains any artificial flavoring, artificial coloring, or chemical preservatives, unless it bears labeling stating that fact: Provided, that to the extent that compliance with the requirements of this subdivision are impracticable, exemptions shall be established by regulations promulgated by the Board of Agriculture. The provisions of this subdivision and subdivisions (7) and (9) with respect to artificial coloring do not apply to butter, cheese, or ice cream. The provisions of this subdivision with respect to chemical preservatives do not apply to a pesticide chemical when used in or on a raw agricultural commodity which is the product of the soil."

Sec. 20. G.S. 106-130 is amended by adding three new subsections as follows:

"(12) If it is a raw agricultural commodity which is the produce of the soil, bearing or containing a pesticide chemical applied after harvest, unless the shipping container of such commodity bears labeling which declares the presence of such chemical in or on such commodity and the common or usual name and the function of such chemical: Provided, however, that no such declaration shall be required while such commodity, having been removed from the shipping container, is being held or displayed for sale at retail out of such container in accordance with the custom of the trade.

(13) If it is a product intended as an ingredient of another food and when used according to the directions of the purveyor will result in the final food product being adulterated or misbranded.

(14) If it is a color additive unless its packaging and labeling are in conformity with such packaging and labeling requirements applicable to such color additive prescribed under the provisions of G.S. 106-132 of this Article."

Sec. 21. G.S. 106-132, which presently reads:

"§ 106-132. *Regulations by Board of Agriculture as to use of deleterious substances.*—Any poisonous or deleterious substance added to any food, except where such substance is required in the production thereof or cannot be avoided by good manufacturing practice, shall be deemed to be unsafe for the purpose of the application of paragraph b. of subdivision (1) of G.S. 106-129; but when such substance is so required or cannot be so avoided, the Board of Agriculture shall promulgate regulations limiting the quantity therein or thereon to such extent as the Board finds necessary for the protection of public health, and any quantity exceeding the limits so fixed shall also be deemed to be unsafe for the purposes of the application of paragraph b. of subdivision (1) of G.S. 106-129. While such a regulation is in effect limiting the quantity of any such substance in the case of any food, such food shall not, by reason of bearing or containing any added amount of such substance, be considered to be adulterated within the meaning of paragraph b., subdivision (1), G.S. 106-129. In determining the quantity of such added substance to be tolerated in or on different articles of food, the Board shall take into account the extent to which the use of such substance is required or cannot be avoided in the production of each such article, and the other ways in which the consumer may be affected by the same or other poisonous or deleterious substances."

is hereby rewritten in its entirety to read as follows:

"§ 106-132. Any added poisonous or added deleterious substance, any food additive, any pesticide chemical in or on a raw agricultural commodity or any color additive, shall with respect to any particular use or intended use be deemed unsafe for the purpose of application of G.S. 106-129(1), sub-subdivisions b. and g. and G.S. 106-129(4) with respect to any food, G.S. 106-133(1) with respect to any drug or device, or G.S. 106-136(1) and (5) with respect to any cosmetic, unless there is in effect a regulation pursuant to G.S. 106-139 of this Article limiting the quantity of substance, and the use or intended use of such substance conforms to the terms prescribed by such regulation. While such regulations relating to such substance are in effect, a food, drug, or cosmetic shall not, by reason of bearing or containing such substance in accordance with the regulations be considered adulterated within the meaning of G.S. 106-129(1)(a), G.S. 106-133(1) and G.S. 106-136(1)."

Sec. 22. G.S. 106-133(1)(d) which presently reads "(d) If it is a drug and it bears or contains, for purposes of coloring only, a coal-tar color other than one

from a batch certified by the United States Department of Agriculture." is rewritten in its entirety to read:

"(d) If 1. it is a drug and it bears or contains, for purposes of coloring only, a color additive which is unsafe within the meaning of G.S. 106-132, or 2. if it is a color additive, the intended use of which in or on drugs is for purposes of coloring only, and is unsafe within the meaning of G.S. 106-132."

Sec. 23. G.S. 106-133(1) is amended by adding at the end thereof:

"(e) If it is a drug and the methods used in, or the facilities or controls used for, its manufacture, processing, packing, or holding do not conform to or are not operated or administered in conformity with current good manufacturing practice to assure that such drug meets the requirements of this Article as to safety and has the identity and strength, and meets the quality and purity characteristics, which it purports or is represented to possess."

Sec. 24. G.S. 106-133(2) is amended to strike the words "by the United States Department of Agriculture" in lines 7 and 8 thereof and by inserting in lieu thereof the words "under authority of the Federal Act."

Sec. 25. G.S. 106-134(1) is amended by putting a comma after the word "particular" and by adding immediately after the comma "or if its labeling or packaging fails to conform with the requirements of G.S. 106-139 or G.S. 106-139.1 of this Article."

Sec. 26. G.S. 106-134(2)(b) is amended by striking the colon following the word "count" in line 2 and putting a comma in lieu thereof and by inserting immediately after the comma the following:

"which statement shall be separately and accurately stated in a uniform location upon the principal display panel of the label, except as exempted with respect to this clause by G.S. 106-121(19)(c) of this Article;".

Sec. 27. G.S. 106-134(5) which reads "(5) If it is a drug and is not designated solely by a name recognized in an official compendium unless its label bears (a) The common or usual name of the drug, if such there be; and (b) In case it is fabricated from two or more ingredients, the common or usual name of each active ingredient, including the kind and quantity or proportion of any alcohol, and also including, whether active or not, the name and quantity or proportion of any bromides, ether, chloroform, acetanilid, acetphenetidin, amidopyrine, antipyrine, atropine, hyoscine, hyoscyamine, arsenic, digitalis, digitalis glucosides, mercury, ouabain, strophanthin, strychnine, thyroid, or any derivative or preparation of any such substances, contained therein: Provided, that to the extent that compliance with the requirements of paragraph (b) of this subdivision is impracticable, exemptions shall be established by regulations promulgated by the Board of Agriculture." is rewritten in its entirety to read as follows:

"(5)a. If it is a drug, unless: 1. its label bears, to the exclusion of any other non-proprietary name (except the applicable systematic chemical name or the chemical formula), I. the established name (as defined in sub-subdivision b. of this subdivision) of the drug, if such there be, and II. in case it is fabricated from two or more ingredients the established name and quantity of each active ingredient, including the kind and quantity or proportion of any alcohol and also including, whether active or not, the established name and quantity or proportion of any bromides, ether, chloroform, acetanilid, acetphenetidin, amidopyrine, antipyrine, atropine, hyoscine, hyoscyamine, arsenic, digitalis, digitalis glucosides, mercury, ouabain, strophanthin, strychnine, thyroid, or any

derivative or preparation of any such substances, contained therein: Provided, that the requirement for stating the quantity of the active ingredients, other than the quantity of those specifically named in this subdivision, shall apply only to prescription drugs; and 2. for any prescription drug the established name of such drug or ingredient, as the case may be, on such label (and on any labeling on which a name for such drug or ingredient is used) is printed prominently and in type at least half as large as that used thereon for any proprietary name or designation for such drug or ingredient; and provided, that to the extent that compliance with the requirements of 1. II. or 2. of this subdivision is impracticable, exemptions shall be allowed under regulations promulgated by the Board.

b. As used in this subdivision (5), the term 'established name', with respect to a drug or ingredient thereof, means: 1. the applicable official name designated pursuant to Section 508 of the Federal Act, or 2. if there is no such name and such drug, or such ingredient, is an article recognized in an official compendium, then the official title thereof, in such compendium, or 3. if neither 1. nor 2. of this sub-subdivision applies, then the common or usual name, if any, of such drug or of such ingredient: Provided further, that where 2. of this sub-subdivision applies to an article recognized in the United States Pharmacopoeia and in the Homeopathic Pharmacopoeia under different official titles, the official title used in the United States Pharmacopoeia shall apply unless it is labeled and offered for sale as a homeopathic drug, in which case the official title used in the Homeopathic Pharmacopoeia shall apply."

Sec. 28. G.S. 106-134(11) and (12) are hereby repealed.

Sec. 29. Article 12 of Chapter 106 is further amended by inserting between G.S. 106-134 and G.S. 106-135 the following:

"§ 106-134.1. (1) A drug intended for use by man which:

a. is a habit-forming drug to which G.S. 106-134(4) applies; or

b. because of its toxicity or other potentiality for harmful effect, or the method of its use, or the collateral measures necessary to its use, is not safe for use except under the supervision of a practitioner licensed by law to administer such drug in the course of his normal practice; or

c. is limited by an approved application under Section 505 of the Federal Act to use under the professional supervision of a practitioner licensed by law to administer such drug; or

d. is a drug the label of which bears the statement 'Caution: Federal law prohibits dispensing without a prescription', shall be dispensed only 1. upon a written prescription of a practitioner licensed by law to administer such drug, or 2. upon an oral prescription of such practitioner which is reduced promptly to writing and filed by the pharmacist, or 3. by refilling any such written or oral prescription if such refilling is authorized by the prescriber either in the original prescription or by oral order which is reduced promptly to writing and filed by the pharmacist. If any prescription for such drug does not indicate the times it may be refilled, if any, such prescription may not be refilled unless the pharmacist is subsequently authorized to do so by the practitioner. The act of dispensing a drug contrary to the provisions of this paragraph shall be deemed to be an act which results in a drug being misbranded while held for sale.

(2) Any drug dispensed by filling or refilling a written or oral prescription of a practitioner licensed by law to administer such drug shall be exempt from the requirements of G.S. 106-134, except subsections (1), (9)(b) and (c), (11) and (12), and the packaging requirements of subsections (7) and (8), if the drug bears an affixed label containing the name of the patient, the name and address of the pharmacy, the phrase 'Filled by _____' or 'Dispensed by _____', with the name of the practitioner who dispenses the prescription appearing in the blank, the serial number and date of the prescription or of its filling, the name of the prescriber, the directions for use, and unless otherwise directed by the prescriber of such drug, the name and strength of such drug. This exemption shall not apply to any drugs dispensed in the course of the conduct of a business of dispensing drugs pursuant to diagnosis by mail, or to a drug dispensed in violation of subsection (1) of this section.

(3) The Board may, by regulation, remove drugs subject to G.S. 106-134(4) and G.S. 106-135 from the requirements of subsection (1) of this section when such requirements are not necessary for the protection of the public health. Drugs removed from the prescription requirements of the federal act by regulations issued thereunder shall also, by regulations issued by the board, be removed from the requirement of subsection (1).

(4) A drug which is subject to subsection (1) of this section shall be deemed to be misbranded if at any time prior to dispensing its label fails to bear the statement 'Caution: Federal Law Prohibits Dispensing Without Prescription'. A drug to which subsection (1) of this section does not apply shall be deemed to be misbranded if at any time prior to dispensing its label bears the caution statement quoted in the preceding sentence.

(5) Nothing in this section shall be construed to relieve any person from any requirement prescribed by or under authority of law with respect to drugs now included or which may hereafter be included within the classification of 'controlled substances' as this term is defined in applicable Federal and State Controlled Substance Acts."

Sec. 30. G.S. 106-134 is amended by adding the following new subsections:

"(11) If it is, or purports to be, or is represented as a drug composed wholly or partly of insulin, unless: a. it is from a batch with respect to which a certificate or release has been issued pursuant to Section 506 of the Federal Act, and b. such certificate or release is in effect with respect to such drug.

(12) If it is, or purports to be, or is represented as a drug composed wholly or partly of any kind of penicillin, streptomycin, chlortetracycline, chloramphenicol, bacitracin, or any other antibiotic drug, or any derivative thereof, unless a. it is from a batch with respect to which a certificate or release has been issued pursuant to Section 507 of the Federal Act, and b. such certificate or release is in effect with respect to such drug: Provided, that this subsection shall not apply to any drug or class of drugs exempted by regulations promulgated under Section 507(c) or (d) of the Federal Act. For the purpose of this subsection the term 'antibiotic drug' means any drug intended for use by man containing any quantity of any chemical substance which is produced by microorganisms and which has the capacity to inhibit or destroy microorganisms in dilute solution (including the chemically synthesized equivalent of any such substance).

(13) If it is a color additive, the intended use of which in or on drugs is for the purpose of coloring only, unless its packaging and labeling are in conformity with such packaging and labeling requirements applicable to such color additive, prescribed under the provisions of G.S. 106-132 of this Article.

(14) In the case of any prescription drug distributed or offered for sale in this State, unless the manufacturer, packer, or distributor thereof includes in all advertisements and other descriptive printed matter issued or caused to be issued by the manufacturer, packer, or distributor with respect to that drug a true statement of a. the established name, as defined in G.S. 106-134(5)(b) of this Article, printed prominently and in type at least half as large as that used for any trade or brand name thereof, b. the formula showing quantitatively each ingredient of such drug to the extent required for labels under Section 502(e) of the Federal Act, and c. such other information in brief summary relating to side effects, contraindications, and effectiveness as shall be required in regulations issued under the Federal Act.

(15) If a trademark, trade name or other identifying mark, imprint or device of another or any likeness of the foregoing has been placed thereon or upon its container with intent to defraud.

(16) If it is a drug and its packaging or labeling is in violation of an applicable regulation issued pursuant to Section 3 or 4 of the Federal Poison Prevention Packaging Act of 1970."

Sec. 31. G.S. 106-135 is rewritten in its entirety to read as follows:

"§ 106-135. (a) No person shall sell, deliver, offer for sale, hold for sale or give away any new drug unless:

(1) An application with respect thereto has been approved and said approval has not been withdrawn under Section 505 of the Federal Act, or

(2) When not subject to the Federal Act, by virtue of not being a drug in interstate commerce, unless such drug has been tested and has been found to be safe for use and effective in use under the conditions prescribed, recommended, or suggested in the labeling thereof, and prior to selling or offering for sale such drug, there has been filed with the Commissioner an application setting forth

a. Full reports of investigations which have been made to show whether or not such drug is safe for use and whether such drug is effective in use;

b. A full list of the articles used as components of such drug;

c. A full statement of the composition of such drug;

d. A full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of such drug;

e. Such samples of such drug and of the articles used as components thereof as the Commissioner may require; and

f. Specimens of the labeling proposed to be used for such drug.

(b) An application provided for in subdivision (a)(2) of this section shall become effective on the 180th day after the filing thereof, except that if the Commissioner finds, after due notice to the applicant and giving him an opportunity for hearing,

(1) That the drug is not safe or not effective for use under the conditions

prescribed, recommended or suggested in the proposed labeling thereof; or

(2) The methods used in, and the facilities and controls used for, the manufacture, processing and packing of such drug is inadequate to preserve its identity, strength, quality, and purity; or

(3) Based on a fair evaluation of all material facts, such labeling is false or misleading in any particular; he shall, prior to the effective date of the application, issue an order refusing to permit the application to become effective.

(c) An order refusing to permit an application under this section to become effective may be revoked by the Commissioner.

(d) The Commissioner shall promulgate regulations for exempting from the operation of the foregoing subsections and subdivisions of this section drugs intended solely for investigational use by experts qualified by scientific training and experience to investigate the safety and effectiveness of drugs. Such regulations may, within the discretion of the Commissioner among other conditions relating to the protection of the public health, provide for conditioning such exemption upon

(1) The submission to the Commissioner, before any clinical testing of a new drug is undertaken, of reports, by the manufacturer or the sponsor of the investigation of such drug, of preclinical tests (including tests on animals) of such drug adequate to justify the proposed clinical testing;

(2) The manufacturer or the sponsor of the investigation of a new drug proposed to be distributed to investigators for clinical testing obtaining a signed agreement from each of such investigators that patients to whom the drug is administered will be under his personal supervision, or under the supervision of investigators responsible to him, and that he will not supply such drug to any other investigator, or to clinics, for administration to human beings; and

(3) The establishment and maintenance of such records, and the making of such reports to the Commissioner, by the manufacturer or the sponsor of the investigation of such drug, of data (including but not limited to analytical reports by investigators) obtained as the result of such investigational use of such drug, as the Commissioner finds will enable him to evaluate the safety and effectiveness of such drug in the event of the filing of an application pursuant to subsection (b).

Such regulations shall provide that such exemption shall be conditioned upon the manufacturer, or the sponsor of the investigation, requiring that experts using such drugs for investigational purposes certify to such manufacturer or sponsor that they will inform any human beings to whom such drugs, or any controls used in connection therewith, are being administered, or their representatives, that such drugs are being used for investigational purposes and will obtain the consent of such human beings or their representatives, except where they deem it not feasible, or, in their professional judgment, contrary to the best interests of such human beings. Nothing in this subsection shall be construed to require any clinical investigator to submit directly to the Commissioner reports on the investigational use of drugs; provided, that regulations adopted under Section 505(i) of the Federal Act may be adopted by the Commissioner as the regulations in this State.

(e) (1) In the case of any drug for which an approval of an application filed

pursuant to this section is in effect, the applicant shall establish and maintain such records, and make such reports to the Commissioner, of data relating to clinical experience and other data or information, received or otherwise obtained by such applicant with respect to such drug, as the Commissioner may by general regulation, or by order with respect to such application, prescribe: Provided, however, that regulations and orders issued under this subsection and under subsection (d) shall have due regard for the professional ethics of the medical profession and the interests of patients and shall provide, where the Commissioner deems it to be appropriate, for the examination, upon request, by the persons to whom such regulations or orders are applicable, of similar information received or otherwise obtained by the Commissioner.

(2) Every person required under this section to maintain records, and every person in charge or custody thereof, shall, upon request of an officer or employee designated by the Commissioner, permit such officer or employee at all reasonable times to have access to and copy and certify such records.

(f) The Commissioner may, after affording an opportunity for public hearing, revoke an application approved pursuant to this section if he finds that the drug, based on evidence acquired after such approval, may not be safe or effective for its intended use, or that the facilities or controls used in the manufacture, processing, or labeling of such drug may present a hazard to the public health.

(g) This section shall not apply:

(1) To a drug sold in this State or introduced into interstate commerce at any time prior to the enactment of the Federal Act, if its labeling contained the same representations concerning the conditions of its use; or

(2) To any drug which is licensed under the Public Health Service Act of July 1, 1944 (58 stat. 682, as amended; 42 U.S.C. 201 *et seq.*) or under the Animal Virus-Serum-Toxin Act of March 4, 1913 (13 stat. 832; 21 U.S.C. 151 *et seq.*); or

(3) To any drug which is subject to Section 106-134 (12) of this Article."

Sec. 32. G.S. 106-136(5) which presently reads:

"(5) If it is not a hair dye and it bears or contains a coal-tar color other than one from a batch which has been certified by the United States Department of Agriculture." is rewritten in its entirety to read as follows:

"(5) If it is not a hair dye and it is, or it bears or contains a color additive which is unsafe within the meaning of G.S. 106-132."

Sec. 33. G.S. 106-137(1) which presently reads:

"(1) If its labeling is false or misleading in any particular" is rewritten in its entirety to read as follows:

"(1)(a) If its labeling is false or misleading in any particular; or

(b) If its labeling or packaging fails to conform with the requirements of Section 106-139 and 106-139.1 of this Article."

Sec. 34. G.S. 106-137(2)(b) is amended by deleting the colon after the word "count" on line 2 of subdivision (b), inserting in lieu thereof a comma and inserting immediately thereafter the clause "which statement shall be separately and accurately stated in a uniform location upon the principal display panel of the label:".

Sec. 35. G.S. 106-137 is further amended by adding the following new subsection:

"(5) If it is a color additive, unless its packaging and labeling are in conformity with such packaging and labeling requirements applicable to such color additive prescribed under the provisions of G.S. 106-132 of this Article. This subsection shall not apply to packages of color additives which, with respect to their use for cosmetics, are marketed and intended for use only in or on hair dyes (as defined in the last sentence of G.S. 106-136(1))."

Sec. 36. G.S. 106-139 is rewritten in its entirety to read as follows:

"§ 106-139(a). The authority to promulgate regulations for the efficient enforcement of this Article is hereby vested in the Board of Agriculture, except the Commissioner of Agriculture is hereby authorized to promulgate regulations under G.S. 106-131 and G.S. 106-135. The Board and Commissioner are hereby authorized to make the regulations promulgated under this Article conform, insofar as practicable, with those promulgated for foods, drugs, devices, cosmetics and consumer commodities under the Federal Act, including but not limited to pesticide chemical residues on or in foods, food additives, color additives, special dietary foods, labeling of margarine for retail sale or distribution, nutritional labeling of foods, the fair packaging and labeling of consumer commodities and new drug clearance. Notwithstanding the provisions of subsection (e) of this section, a Federal regulation adopted by the Board or Commissioner pursuant to this Article shall take effect in this State on the date it becomes effective as a Federal regulation.

(b) The Board may promulgate regulations exempting from any affirmative labeling requirement of this Article consumer commodities which are, in accordance with the practice of the trade, to be processed, labeled or repacked in substantial quantities at establishments other than those where originally processed or packed, on condition that such consumer commodities are not adulterated or misbranded under the provisions of this Article upon removal from such processing, labeling or repacking establishment. The Board may additionally promulgate regulations exempting from any labeling requirement of this Article foods packaged or dispensed at the direction of the retail purchaser at the time of sale, whether or not for immediate consumption by the purchaser on the premises of the seller.

(c) Whenever the Board determines that regulations containing prohibitions or requirements other than those prescribed by G.S. 106-139.1(a) are necessary to prevent the deception of consumers or to facilitate value comparisons as to any consumer commodity, the Board shall promulgate with respect to that commodity regulations effective to:

(1) establish and define standards for the characterization of the size of a package enclosing any consumer commodity, which may be used to supplement the label statement of net quantity of contents of packages containing such commodity, but this paragraph shall not be construed as authorizing any limitation of the size, shape, weight dimensions, or number of packages which may be used to enclose any commodity;

(2) regulate the placement upon any package containing any commodity or upon any label affixed to such commodity, of any printed matter stating or representing by implication that such commodity is offered for retail sale at a price lower than the ordinary and customary retail sale price or

that a retail sale price advantage is accorded to purchasers thereof by reason of the size of that package or the quantity of its contents;

(3) require that the label on each package of a consumer commodity bear a. the common or usual name of such consumer commodity, if any, and b. in case such consumer commodity consists of two or more ingredients, the common or usual name of each such ingredient listed in order of decreasing predominance, but nothing in this paragraph shall be deemed to require that any trade secret be divulged; or

(4) prevent the nonfunctional slack-fill of packages containing consumer commodities.

For the purposes of subdivision (4) of this subsection, a package shall be deemed to be nonfunctionally slack-filled if it is filled of substantially less than its capacity for reasons other than a. protection of the contents of such package, or b. the requirements of machines used for enclosing the contents in such package; provided, the Board may adopt any regulations promulgated pursuant to the Federal Fair Packaging and Labeling Act which shall have the force and effect of law in this State.

(d) Hearings authorized or required by Sections 106-131 or 106-135 of this Article shall be conducted by the Commissioner of Agriculture or such officer, agent, or employee as the Commissioner may designate for the purpose.

(e) Before promulgation of any regulation, the Commissioner of Agriculture shall give 30 days' notice of the proposal and of the time and place for a hearing. The regulation so promulgated shall become effective on a date fixed by the Board of Agriculture, or Commissioner, as the case may be, which date shall not be prior to 90 days after its promulgation (except such regulations as may be promulgated under G.S. 106-131, which regulations shall become effective on the date of promulgation, and Federal regulations adopted as regulations in this State as provided by subsection (a) of this section). Such regulation may be amended or repealed in the same manner as is provided for its adoption; except that in the case of a regulation amending or repealing any such regulation the Board or Commissioner, to such extent as it deems necessary in order to prevent undue hardship, may disregard the foregoing provisions regarding notice, hearing, or effective date."

Sec. 37. Article 12 of Chapter 106 is further amended by inserting between G.S. 106-139 and G.S. 106-140 the following:

"§ 106-139.1. (a) All labels of consumer commodities, as defined by this Article, shall conform with the requirements for the declaration of net quantity of contents of Section 4 of the Federal Fair Packaging and Labeling Act (15 U.S.C. 1451, *et seq.*) and the regulations promulgated pursuant thereto: Provided, that consumer commodities exempted from such requirements of Section 4 of the Federal Fair Packaging and Labeling Act shall also be exempt from this subsection.

(b) The label of any package of a consumer commodity which bears a representation as to the number of servings of such commodity contained in such package shall bear a statement of the net quantity (in terms of weight, measure, or numerical count) of each such serving.

(c) No person shall distribute or cause to be distributed in commerce any packaged consumer commodity if any qualifying words or phrases appear in conjunction with the separate statement of the net quantity of contents required by subsection (a) of this section, but nothing in this section shall prohibit

supplemental statements, at other places on the package, describing in nondeceptive terms the net quantity of contents: Provided, that such supplemental statements of net quantity of contents shall not include any term qualifying a unit of weight, measure, or count that tends to exaggerate the amount of the commodity contained in the package."

Sec. 38. G.S. 106-140 is rewritten in its entirety to read as follows:

"§ 106-140. (a) For purposes of enforcement of this Article, the Commissioner or any of his authorized agents, are authorized upon presenting appropriate credentials and a written notice to the owner, operator or agent in charge,

(1) to enter at reasonable times any factory, warehouse or establishment in which food, drugs, devices or cosmetics are manufactured, processed, or packed or held for introduction into commerce or after such introduction or to enter any vehicle being used to transport or hold such food, drugs, devices or cosmetics in commerce; and

(2) to inspect at reasonable times and in a reasonable manner such factory, warehouse, establishment or vehicle and all pertinent equipment, finished and unfinished materials, containers and labeling therein, and to obtain samples necessary to the endorsement of this Article. In the case of any factory, warehouse, establishment, or consulting laboratory in which any food, drug, device or cosmetic is manufactured, processed, analyzed, packed or held, the inspection shall extend to all things therein (including records, files, papers, processes, controls and facilities) bearing on whether any food, drug, device or cosmetic which is adulterated or misbranded within the meaning of this Article or which may not be manufactured, introduced into commerce or sold or offered for sale by reason of any provision of this Article, has been or is being manufactured, processed, packed, transported or held in any such place or otherwise bearing on violation of this Act. No inspection authorized by the preceding sentence shall extend to a. financial data, b. sales data other than shipment data, c. personnel data (other than data as to qualifications of technical and professional personnel performing functions subject to this Article), d. pricing data, and e. research data (other than data relating to new drugs and antibiotic drugs, subject to reporting and inspection under lawful regulations issued pursuant to Section 505(i) or (j) or Section 507(d) or (g) of the Federal Act, and data, relating to other drugs, which in the case of a new drug would be subject to reporting or inspection under lawful regulations issued pursuant to Section 505(j) of the Federal Act). Such inspection shall be commenced and completed with reasonable promptness. The provisions of the second sentence of this subsection shall not apply to such classes of persons as the Board may by regulation exempt from the application of this section upon a finding that inspection as applied to such classes of persons in accordance with this section is not necessary for the protection of the public health.

(3) to have access to and to copy all records of carriers in commerce showing the movement in commerce of any food, drug, device, or cosmetic, or the holding thereof during or after such movement, and the quantity, shipper and consignee thereof: Provided, that evidence obtained under this subsection shall not be used in a criminal

prosecution of the person from whom obtained; and provided further, that carriers shall not be subject to the other provisions of this Article by reason of their receipt, carriage, holding, or delivery of food, drugs, devices or cosmetics in the usual course of business as carriers.

(b) Upon completion of any such inspection of a factory, warehouse, consulting laboratory or other establishment and prior to leaving the premises, the authorized agent making the inspection shall give to the owner, operator, or agent-in-charge a report in writing setting forth any conditions or practices observed by him which in his judgment indicate that any food, drug, device or cosmetic in such establishment:

(1) consists in whole or in part of any filthy, putrid, or decomposed substance; or

(2) has been prepared, packed or held under insanitary conditions whereby it may have become contaminated with filth or whereby it may have been rendered injurious to health.

(c) If the authorized agent making any such inspection of a factory, warehouse or other establishment has obtained any salable product samples in the course of the inspection, upon completion of the inspection and prior to leaving the premises he shall offer reasonable payment for any such product samples.

(d) It shall be the duty of the Commissioner of Agriculture to make or cause to be made examination of samples secured under the provisions of this section to determine whether or not any provision of this Article is being violated."

Sec. 39. G.S. 106-141 is amended by striking subsection (a) which presently reads:

"(a) In the appointment of any drug inspector in carrying out the provisions of this Article, the Commissioner of Agriculture shall confer with the North Carolina Board of Pharmacy."

Sec. 40. G.S. 106-144 which presently reads:

"§ 106-144. Meats and meat products subject to Federal Meat and Inspection Act approved March 4, 1907, as amended, are exempted from the provisions of this Article so long as such meats and meat products remain in possession of the processor."

is rewritten in its entirety to read as follows:

"§ 106-144. Meats and meat products subject to the Federal Meat Inspection Act of March 4, 1907, (34 Stat. 1260), as amended and extended (21 U.S.C. 71 *et seq.*), and poultry and poultry products subject to the Federal Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*) are exempted from the provisions of this Article so long as such meat, meat products, poultry, and poultry products remain in the possession of the processor."

Sec. 41. If any provision of this Act is declared unconstitutional or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the Act and applicability thereof to other persons and circumstances shall not be affected thereby.

Sec. 42. (a) All laws and clauses of laws in conflict with or inconsistent with the provisions of this Article are hereby repealed and the North Carolina Bakery Inspection Law, Article 22, Chapter 106; the North Carolina Bottling Plant Law, Article 16, Chapter 106; the North Carolina Artificially Bleached Flour Law, Article 21, Chapter 106; the North Carolina Flour, Bread and Corn Meal Enrichment Act, Article 21A, Chapter 106; and the Oleomargarine Laws,

Articles 23 and 24, Chapter 106 of the General Statutes, are hereby specifically repealed.

(b) Notwithstanding any other provisions of law, all existing rules and regulations concerning the sanitation, safety, inspection, analysis, composition, manufacture, packing, transportation, holding or offering for sale of any food, drug, device or cosmetic of the State of North Carolina Department of Agriculture, not inconsistent with the provisions of this Article shall continue in full force until repealed, amended or modified.

Sec. 43. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 16th day of June, 1975.

H. B. 983 CHAPTER 615

AN ACT TO AMEND G.S. 136-44.9 RELATING TO SECONDARY ROADS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-44.9 is hereby amended by:

(a) striking the words "within three months after the close of each fiscal year" in the first sentence and by inserting in lieu thereof the words "before the end of the calendar year", and

(b) substituting the word "calendar" for the word "fiscal" in subparagraphs (i) and (ii) thereof.

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 16th day of June, 1975.

S. B. 728 CHAPTER 616

AN ACT TO AMEND G.S. 122A-5(1), G.S. 122A-5(3) AND G.S. 122A-5.1(c), SUCH SECTIONS BEING A PART OF THE NORTH CAROLINA HOUSING FINANCE AGENCY ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 122A-5(1) is amended by striking out "Section 23" and inserting in lieu thereof "Section 8".

Sec. 2. G.S. 122A-5(3) is rewritten to read as follows:

"(3) To purchase or participate in the purchase and enter into commitments by itself or together with others for

(a) the purchase of mortgage loans made by mortgage lenders to sponsors of residential housing or to persons of lower income for residential housing where the agency has given its approval prior to the initial making of the mortgage loan; provided, however, that any such purchase shall be made only upon the determination by the agency that mortgage loans were, at the time the approval was given, not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions, or

(b) the purchase of mortgage loans made by mortgage lenders without such prior approval to sponsors of housing for persons and families of any income or to persons of any income for housing upon such terms and conditions requiring the proceeds thereof to be used by such mortgage lenders for the making of new mortgage loans to sponsors of residential housing or to persons of lower income for residential housing as the agency may prescribe by its rules and regulations;

provided, however, that (i) any such purchase of existing mortgage loans shall be made only upon the determination by the agency that such new mortgage loans are not otherwise available from private lenders upon reasonably equivalent terms and conditions, and (ii) the agency shall purchase mortgage loans made to sponsors of housing for persons and families not of lower income or to persons not of lower income for housing only upon the determination by the agency that mortgage loans made to sponsors of residential housing or to persons of lower income for residential housing are not available for purchase by the agency upon reasonable terms and conditions."

Sec. 3. G.S. 122A-5.1(c) is rewritten to read as follows:

"(c) The agency shall require as a condition of the purchase of federally insured securities from a mortgage lender and the purchase or the making of a commitment to purchase mortgage loans from a mortgage lender where the agency has not given its approval prior to the initial making of the mortgage loan that such mortgage lender shall on or prior to the 180th day (or such earlier day as may be prescribed by rules and regulations of the agency) following the receipt of the sale proceeds have entered into written commitments to make, and shall thereafter proceed as promptly as practicable to make from such sale proceeds, new mortgage loans with respect to residential housing in the State having a stated maturity of not less than 20 years from the date thereof in an aggregate principal amount equal to the amount of such sale proceeds. The agency shall not purchase nor make commitment to purchase mortgage loans, federally insured securities or other obligations from a mortgage lender from which it has previously purchased federally insured securities or mortgage loans initially made without such prior approval unless said mortgage lender has either made or entered into written commitments to make such new mortgage loans."

Sec. 4. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1975.

S. B. 854 CHAPTER 617

AN ACT TO PROHIBIT THE SALE AND DISPOSAL OF INTOXICATING LIQUORS IN THE COUNTY OF CARTERET AT ANY LOCATION EAST OF THE COMMUNITY OF GLOUCESTER.

The General Assembly of North Carolina enacts:

Section 1. It shall be unlawful for any person, persons, firm or corporation to sell or otherwise dispose of for gain or to give away spirituous, vinous or malt liquors, wines, ciders either foreign or domestic, bitters containing more than one-half of one percent, by volume, of alcohol at any location in the County of Carteret east of the community of Gloucester and including but not limited to Marshallberg, Smyrna, Williston, Davis, Stacy, Sealevel, Atlantic, Lola and Cedar Island.

Sec. 2. Any person or persons, firm or corporation violating this act shall be guilty of a misdemeanor, and upon conviction shall be fined or imprisoned or both, for each and every offense, at the discretion of the court.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1975.

H. B. 121 **CHAPTER 618**

AN ACT TO SIMPLIFY PROCEDURES FOR PAROLE OF INMATES SERVING MORE THAN TWO YEARS.

The General Assembly of North Carolina enacts:

Section 1. Article 4 of Chapter 148 of the General Statutes is amended by adding to it a new section to read as follows:

"§ 148-60.2. *Administrative procedures for parole.*—(a) Subject to the provisions of subsection (c) the Parole Commission shall parole each prisoner who is serving a minimum sentence of two years or more, not later than 90 days prior to the expiration of his sentence if such sentence is determinate, less earned allowances for good behavior; or 90 days prior to the expiration of his maximum sentence, less earned allowances for good behavior, if such sentence is indeterminate, unless the Parole Commission in all cases, whether sentence be determinate or indeterminate, shall find that release of the prisoner is not compatible with the welfare of society.

(b) The official discharge by the Parole Commission of such a parolee shall occur not later than the final expiration date of the sentence, less earned allowances for good behavior.

(c) Each prisoner who becomes eligible for parole under subsection (a) of this section may reject such parole, in which case he will remain in the custody of the Department of Correction for the rest of his term of imprisonment. If a prisoner who has been released under subsection (a) violates the terms of his parole, the Parole Commission shall revoke the order of his parole and that parolee then shall be returned to the penal institution having custodial jurisdiction over him. A prisoner who has been granted a parole under subsection (a) and who subsequently has had such parole revoked under the provisions of this subsection shall be ineligible for further parole under any provisions of the law during the remainder of the time which he has to serve under that sentence of imprisonment."

Sec. 2. The first sentence of G.S. 148-58.1(a) is amended by deleting the period and by putting in its place the following:

"except as provided in G.S. 148-60.2."

Sec. 3. This act shall become effective on September 1, 1975.

In the General Assembly read three times and ratified, this the 16th day of June, 1975.

H. B. 275 **CHAPTER 619**

AN ACT TO PROVIDE FOR UNIFORM REGULATION OF THE BAIL BOND BUSINESS THROUGHOUT THE STATE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 85A of the General Statutes of North Carolina is hereby amended by rewriting this Chapter to read as follows:

"Chapter 85A.

"Bail Bondsmen and Runners.

"§ 85A-1. *Definitions.*—The following words when used in this Chapter shall have the following meanings:

(1) 'Accommodation bondsman' is a natural person who has reached the age of 18 years and is a bona fide resident of this State and who, aside from love and

affection and release of the person concerned, receives no consideration for action as surety and who endorses the bail bond after providing satisfactory evidences of ownership, value and marketability of real or personal property to the extent necessary to reasonably satisfy the official taking bond that such real or personal property will in all respects be sufficient to assure that the full principal sum of the bond will be realized in the event of breach of the conditions thereof. 'Consideration' as used in this subdivision does not include the legal rights of a surety against a principal by reason of breach of the conditions of a bail bond nor does it include collateral furnished to and securing the surety so long as the value of the surety's rights in the collateral do not exceed the principal's liability to the surety by reason of a breach in the conditions of said bail bond.

(2) 'Bail bond' shall mean an undertaking by the principal to appear in court as required upon penalty of forfeiting bail to the State in a stated amount; and may include an unsecured appearance bond, a premium-secured appearance bond, an appearance bond secured by a cash deposit of the full amount of the bond, an appearance bond secured by a mortgage pursuant to G.S. 109-25, and an appearance bond secured by at least one surety.

(3) 'Bail bondsman' shall mean a surety bondsman, professional bondsman or an accommodation bondsman as hereinafter defined.

(4) 'Commissioner' shall mean the Commissioner of Insurance.

(5) 'Insurer' shall mean any domestic, foreign, or alien surety company which has qualified generally to transact surety business and specifically to transact bail bond business in this State.

(6) 'Obligor' shall mean a principal or a surety on a bail bond.

(7) 'Principal' shall mean a defendant or witness obligated to appear in court as required upon penalty of forfeiting bail under a bail bond.

(8) 'Professional bondsman' shall mean any person who is approved and licensed by the Commissioner and who pledges cash or approved securities with the Commissioner as security for bail bonds written in connection with a judicial proceeding and receives or is promised money or other things of value therefor.

(9) 'Runner' shall mean a person employed by a bail bondsman for the purpose of assisting the bail bondsman in presenting the defendant in court when required, or to assist in apprehension and surrender of defendant to the court, or keeping defendant under necessary surveillance, or to execute bonds on behalf of the licensed bondsman when the power of attorney has been duly recorded. 'Runner' does not include, however, a duly licensed attorney at law or a law enforcement officer assisting a bondsman.

(10) 'Surety' shall mean one who, with the principal, is liable for the amount of the bail bond upon forfeiture of bail.

(11) 'Surety bondsman' shall mean any person who is approved by and licensed by the Commissioner as an insurance agent pursuant to the provisions of Chapter 58 of the General Statutes of North Carolina and appointed by an insurer by power of attorney to execute or countersign bail bonds for the insurer in connection with judicial proceedings and receives or is promised money or other things of value therefor.

"§ 85A-2. *Commissioner of Insurance to administer Chapter; rules and regulations; employees; evidence of Commissioner's actions.*—(a) The Commissioner shall have full power and authority to administer the provisions

of this Chapter, which regulates bail bondsmen and runners and to that end to adopt, and promulgate rules and regulations to enforce the purposes and provisions of this Chapter. Subject to the provisions of the State Personnel Act, the Commissioner may employ and discharge such employees, examiners, investigators and such other assistants as shall be deemed necessary, and he shall prescribe their duties.

(b) Any written instrument purporting to be a copy of any action, proceeding, or finding of fact by the Commissioner, or any record of the Commissioner authenticated under the hand of the Commissioner by the seal of his office shall be accepted by all the courts of this State as prima facie evidence of the contents thereof.

"§ 85A-3. *Defects not to invalidate undertakings; liability not affected by agreement or lack of qualifications.*—No undertaking shall be invalid, nor shall any person be discharged from his undertaking, nor a forfeiture thereof be stayed nor shall judgment thereon be stayed, set aside or reversed, the collection of any such judgment be barred or defeated by reason of any defect of form, omission or recital or of condition, failure to note or record the default of any principal or surety, or because of any other irregularity, or because the undertaking was entered into on Sunday or other holiday, if it appears from the tenor of the undertaking before what magistrate or at what court the principal was bound to appear, and that the official before whom it was entered into was legally authorized to take it and the amount of bail is stated.

The liability of a person on an undertaking shall not be affected by reason of the lack of any qualifications, sufficiency or competency provided in the criminal procedure law, or by reason of any other agreement whether or not the agreement is expressed in the undertaking, or because the defendant has not joined in the undertaking.

"§ 85A-4. *Qualifications of sureties on bail.*—Each and every surety for the release of a person on bail shall be qualified as:

(1) An insurer and represented by a surety bondsman or bondsmen; or

(2) A professional bondsman; or

(3) An accommodation bondsman.

"§ 85A-5. *Surrender of defendant by surety; when premium need not be returned.*—At any time before there has been a breach of the undertaking in any type of bail or fine and cash bond the surety may surrender the defendant to the official to whose custody the defendant was committed at the time bail was taken, or to the official into whose custody the defendant would have been given had he been committed; in such case the full premium shall be returned. The defendant may be surrendered without the return of premium for the bond if he has been guilty of nonpayment of premium, changing address without notifying his bondsman, concealing himself, leaving the jurisdiction of the court without the permission of his bondsman or violating his obligation to the court.

"§ 85A-6. *Procedure for surrender; exoneration of obligors; refund of deposit.*—The person desiring to make a surrender of the defendant shall procure a certified copy of the undertakings and deliver them together with the defendant to the official in whose custody the defendant was at the time bail was taken, or to the official into whose custody he would have been given had he been committed, who shall detain the defendant in his custody thereon, as upon a commitment, and by a certificate in writing acknowledge the surrender.

Upon the presentation of certified copy of the undertakings and the certificate of the official, the court before which the defendant has been held to answer, or the court in which the preliminary examination, warrant, indictment, information or appeal as the case may be, is pending, shall upon notice of three days given by the person making the surrender to the prosecuting officer of the court having jurisdiction of the offense, together with a copy of the undertakings and certificate, order that the obligors be exonerated from liability of their undertakings, and, if money or bonds have been deposited as bail, that such money or bonds be refunded.

"§ 85A-7. *Arrest of defendent for purpose of surrender.*—For the purpose of surrendering the defendant, the surety may arrest him before the forfeiture of the undertaking, or by his written authority endorsed on a certified copy of the undertaking, may request any judicial officer to order arrest of the defendent.

"§ 85A-8. *Forfeiture of bail.*—(a) The procedure for forfeiture of bail shall be that provided in Article 26 of Chapter 15A of the General Statutes and all provisions of that Article shall continue in full force and effect.

(b) At any time before execution is issued on a judgment of forfeiture against a principal or his surety, the court may direct that the judgment be remitted in whole or in part, upon such conditions as the court may impose, if it appears that justice requires the remission of part or all of the judgment.

"§ 85A-9. *Bail bondsmen and runners to be qualified and licensed; only individuals to be licensed; license applications generally.*—No person shall act in the capacity of a bail bondsman or runner or perform any of the functions, duties, or powers prescribed for bail bondsmen or runners under the provisions of this Chapter unless that person shall be qualified and (except as regards an accommodation bondsman) licensed in accordance with the provisions of this Chapter. No license shall be issued to a professional bondsman or runner except as provided in this Chapter and none shall be issued except to an individual natural person.

The applicant shall apply for license or renewal thereof on forms prepared and supplied by the Commissioner and the Commissioner may propound any reasonable interrogatories to an applicant for a license under this Chapter or on any renewal thereof, relating to his qualifications, residence, prospective place of business, and any other matters which, in the opinion of the Commissioner, are deemed necessary in order to protect the public and ascertain the qualifications of the applicant. The Commissioner may also conduct any reasonable inquiry or investigation he sees fit, relative to the determination of the applicant's fitness to be licensed or to continue to be licensed.

The failure of the applicant to secure approval of the Commissioner shall not preclude him from applying as many times as he desires, but no application shall be considered by the Commissioner within one year subsequent to the date upon which the Commissioner denied the last application.

"§ 85A-10. *Expiration of licenses.*—All licenses issued pursuant to the provisions of this Chapter shall expire annually on June 30 unless revoked or suspended prior thereto by the Commissioner, or upon notice served upon the Commissioner that the employer of any runner has cancelled the licensee's authority to act for such employer.

"§ 85A-11. *Qualification for professional bondsman and runners.*—Before license can issue to an applicant permitting him to act as a professional bondsman or runner, he must furnish the Commissioner a complete set of his

fingerprints and a recent passport size full-face photograph of himself. The applicant's fingerprints shall be certified by an authorized law enforcement officer.

Every applicant for license as a professional bondsman or runner before being issued such license shall satisfy the Commissioner that he:

(1) Is 18 years of age or over;

(2) Is a resident of this State;

(3) Is a person of good moral character and has not been convicted of a felony or any crime involving moral turpitude;

(4) Has knowledge, training, or experience of sufficient duration and extent to reasonably satisfy the Commissioner that he possesses the competence necessary to fulfill the responsibilities of a licensee.

"§ 85A-12. *License fees.*—A license fee of thirty dollars ($30.00) shall be paid to the Commissioner with each application for license as a professional bondsman and a license fee of ten dollars ($10.00) shall be paid to the Commissioner with each application for license as a runner.

"§ 85A-13. *Annual financial statement of professional bondsmen.*—In addition to the other requirements of this Chapter, an applicant for a professional bondsman's license shall furnish annually a financial statement under oath in such detail and form as the Commissioner may require and any such statement shall be subject to the same examination as is prescribed by law for domestic insurance companies.

"§ 85A-14. *Contents of application for runner's license; endorsement by bail bondsman.*—In addition to the other requirements of this Chapter, an applicant for a license to be a runner must affirmatively show:

(1) That the applicant will be employed by only one bail bondsman who will supervise the work of the applicant and be responsible for the runner's conduct in the bail bond business; and

(2) That the application is endorsed by the appointing bail bondsman who shall obligate himself therein to supervise the runner's activities.

"§ 85A-15. *Examination; fees.*—Except as hereinafter provided, an applicant for license to be a professional bondsman or runner shall be required to appear in person and take a written examination prepared by the Commissioner testing his ability and qualifications. Each applicant shall become eligible for examination 30 days after the date the application is received by the Commissioner. Examinations shall be held at such time and place as designated by the Commissioner, and the applicant shall be given notice of such time and place not less than 15 days prior to taking the examination. The fee for such examination shall be fifteen dollars ($15.00) for professional bondsmen and ten dollars ($10.00) for runners. The failure of an applicant to pass an examination shall not preclude him from taking subsequent examinations; provided, however, that at least one year must intervene between examinations.

No person shall be required to submit to examination to obtain license as a professional bondsman if he is now licensed by the Commissioner of Insurance or the Secretary of Revenue and is performing the functions of a bondsman on the taking effect of this Chapter, and no person shall be required to submit to examination to obtain license as a runner if he is performing the functions of a runner on the taking effect of this Chapter.

"§ 85A-16. *Renewal of licenses; fees.*—A renewal license shall be issued by the Commissioner to a licensee who has continuously maintained his license in

effect without further examination upon the payment of a renewal fee of ten dollars ($10.00) in case of runners and thirty dollars ($30.00) in case of professional bondsmen, but such licensees shall in all other respects be required to comply with and be subject to the provisions of this Chapter. After the receipt of such licensee's application for renewal, the current license shall continue in effect until the renewal license is issued or denied for cause.

"§ 85A-17. *Grounds for denial, suspension, revocation or refusal to renew licenses.*—(a) The Commissioner may deny, suspend, revoke or refuse to renew any license issued under this Chapter for any of the following causes:

(1) For any cause sufficient to deny, suspend, or revoke license under any other provision of this Chapter.

(2) Violation of any laws of this State relating to bail in the course of dealings under the license issued him by the Commissioner.

(3) Material misstatement, misrepresentation or fraud in obtaining the license.

(4) Misappropriation, conversion or unlawful withholding of monies, belonging to insurers or others and received in the conduct of business under the license.

(5) Fraudulent or dishonest practices in the conduct of business under the license.

(6) Conviction of a felony regardless of the time such conviction occurred and regardless of whether such conviction resulted from conduct in or related to the bail bond business.

(7) Failure to comply with or violation of the provisions of this Chapter or of any order, rule or regulation of the Commissioner.

(8) When in the judgment of the Commissioner, the licensee has in the conduct of his affairs under the license, demonstrated incompetency or untrustworthiness or that he is no longer in good faith carrying on the bail bond business or that he is guilty of rebating, or offering to rebate, or offering to divide the premiums received for the bond.

(9) For failing to pay any judgment or decree rendered on any forfeited undertaking in any Court of competent jurisdiction.

(10) For charging or receiving, as premium or compensation for the making of any deposit or bail bond, any sum in excess of that permitted by this Chapter.

(11) For requiring, as a condition of his executing a bail bond, that the principal agree to engage the services of a specified attorney.

(b) The Commissioner, in lieu of revoking or suspending a license in accordance with the provisions of this Article, may, in any one proceeding, by order, require the licensee to pay to the school fund in the county of his residence a civil penalty in the sum of two hundred fifty dollars ($250.00) for each offense. Upon failure of such licensee to pay penalty within 20 days after the mailing of such order, postage prepaid, registered and addressed to the last known place of business of such licensee, unless such order is stayed by an order of the Court of competent jurisdiction, the Commissioner may revoke the license of such licensee or may suspend the same for such period as he may determine.

"§ 85A-18. *Notice and hearing before de-licensing.*—No license shall be refused, suspended, revoked, or renewal refused except on reasonable notice and opportunity to be heard afforded the person licensed or renewal thereof.

"§ 85A-19. *Appeal from denial, suspension, revocation or refusal to renew license.*—Any applicant for license as bail bondsman or runner whose application has been denied or whose license shall have been suspended or revoked, or renewal thereof denied, shall have the right of appeal from such final order of the Commissioner thereon pursuant to the provisions of G.S. 58-9.3.

"§ 85A-20. *Prohibited practices.*—No bail bondsman or runner shall:

Pay a fee or rebate or give or promise anything of value, directly or indirectly, to a jailer, law enforcement officer, committing magistrate, or any other person who has power to arrest or hold in custody; or to any public official or public employee in order to secure a settlement, compromise, remission or reduction of the amount of any bail bond or the forfeiture thereof; including the payment to law enforcement officers, directly or indirectly, for the arrest or apprehension of a principal or principals who have caused or will cause a forfeiture.

Pay a fee or rebate or give anything of value to an attorney in bail bond matters, except in defense of any action on a bond.

Pay a fee or rebate or give or promise anything of value to the principal or anyone in his behalf.

Participate in the capacity of an attorney at a trial or hearing of one on whose bond he is surety, nor suggest or advise the employment of, or name for employment any particular attorney to represent his principal.

Accept anything of value from a principal except the premium, which shall not exceed fifteen percent (15%) of the face amount of the bond, provided that the bondsman shall be permitted to accept collateral security or other indemnity from the principal which shall be returned upon final termination of liability on the bond. Such collateral security or other indemnity required by the bondsman must be reasonable in relation to the amount of the bond.

Solicit business in any of the Courts or on the premises of any of the Courts of this State, in the office of any magistrate and in or about any place where prisoners are confined. Loitering in or about a magistrate's office or any place where prisoners are confined shall be prima facie evidence of soliciting.

Advise or assist the principal for the purpose of forfeiting bond.

"§ 85A-21. *Receipts for collateral.*—When a bail bondsman accepts collateral he shall give a written receipt for same, and this receipt shall give in detail a full description of the collateral received.

"§ 85A-22. *Persons prohibited from becoming surety or runners.*—No sheriff, deputy sheriff, other law enforcement officer, judicial official, attorney, parole officer, probation officer, jailer, assistant jailer, employee of the General Court of Justice, other public employee assigned to duties relating to the administration of criminal justice, may in any case become surety on a bail bond for any person. In addition, no person covered by this section may act as agent for any bonding company or professional bondsman. No such person may have an interest, directly or indirectly, in the financial affairs of any firm or corporation whose principal business is acting as bondsmen. Provided, however, nothing herein shall prohibit any person above designated from being surety upon the bond of his or her spouse, parent, brother, sister, child or descendant.

"§ 85A-23. *Bonds not to be signed in blank; authority to countersign only given to licensed employee.*—A bail bondsman shall not sign nor countersign in blank bail bonds, nor shall he give a power of attorney to, or otherwise authorize, anyone to countersign his name to bonds unless the person so authorized is a licensed bondsman or runner directly employed by the bondsman

giving such power of attorney. Copies of all such powers of attorney and revocations of such powers of attorney must be filed immediately with the Commissioner and the clerk of superior court of any county in the State where said bondsman giving the power of attorney is currently writing or is obligated on bail bonds.

"§ 85A-24. *Insurers to annually report surety bondsmen; notices of appointments and terminations; information confidential.*—Every insurer shall annually prior to July 1, furnish the Commissioner a list of all surety bondsmen appointed by it to write bail bonds on its behalf. Every such insurer who subsequently appoints a surety bondsman in the State shall give notice thereof to the Commissioner. All such appointments shall be subject to the issuance of the proper insurance agent's license to the appointee.

An insurer terminating the appointment of a surety bondsman shall file written notice thereof with the Commissioner, together with a statement that it has given or mailed notice to the surety bondsman and to the clerk of superior court of any county in the State wherein such insurer has been obligated on bail bonds through said agent within the past three years. Such notice filed with the Commissioner shall state the reasons, if any, for such termination. Information so furnished the Commissioner shall be privileged and shall not be used as evidence in or basis for any action against the insurer or any of its representatives.

"§ 85A-25. *Bail bondsman to give notice of discontinuance of business; cancellation of license.*—Any bail bondsman who discontinues writing bail bonds during the period for which he is licensed shall notify the clerks of the superior court with whom he is registered and return his license to the Commissioner for cancellation within 30 days after such discontinuance.

"§ 85A-26. *Persons eligible as runners; bail bondsmen to annually report runners; notices of appointments and terminations; information confidential.*—Every person duly licensed as a bail bondsman may appoint as runner any person who has been issued runner's license. Each bail bondsman must, on or before July 1 of each year, furnish to the Commissioner a list of all runners appointed by him. Each such bail bondsman who shall, subsequent to the filing of this list, appoint additional persons as runners shall file written notice with the Commissioner of such appointment.

A bail bondsman terminating the appointment of a runner shall file written notice thereof with the Commissioner, together with a statement that he has given or mailed notice to the runner. Such notice filed with the Commissioner shall state the reasons, if any, for such termination. Information so furnished the Commissioner shall be privileged and shall not be used as evidence in any action against the bail bondsman.

"§ 85A-27. *Substituting bail by sureties for deposit.*—If money or bonds have been deposited, bail by sureties may be substituted therefor at any time before a breach of the undertaking, and the official taking the new bail shall make an order that the money or bonds be refunded to the person depositing the same and they shall be refunded accordingly, and the original undertakings shall be cancelled.

"§ 85A-28. *Deposit for defendant admitted to bail authorizes release and cancellation of undertaking.*—When the defendant has been admitted to bail, he, or another in his behalf, may deposit with an official authorized to take bail, a sum of money, or nonregistered bonds of the United States, or of the State, or of

any county, city or town within the State, equal in market value to the amount of such bail, together with his personal undertaking, and an undertaking of such other person, if the money or bonds are deposited by another. Upon delivery to the official in whose custody the defendant is of a certificate of such deposit, he shall be discharged from custody in the cause.

When bail other than a deposit of money or bonds has been given, the defendant or the surety may, at any time before a breach of the undertaking, deposit the sum mentioned in the undertaking, and upon such deposit being made, accompanied by a new undertaking, the original undertaking shall be cancelled.

"§ 85A-29. *Registration of licenses and power of appointments by insurers.*—No professional bail bondsman shall become a surety on an undertaking unless he has registered his current license in the office of the clerk of superior court in the county in which he resides and a certified copy of the same with the clerk of superior court in any other county in which he shall write bail bonds.

A surety bondsman shall also annually register a certified copy of his current power of appointment with the clerk of superior court wherein he resides and in any other county wherein he shall write bail bonds on behalf of an insurer.

"§ 85A-30. *Financial responsibility of professional bondsmen.*—Each professional bondsman acting as surety on bail bonds in this State shall maintain a deposit of securities with and satisfactory to the Commissioner of a fair market value of at least one-eighth (1/8) the amount of all bonds or undertakings written in this State on which he is absolutely or conditionally liable as of the first day of the current month. The amount of this deposit must be reconciled with the bondsman's liabilities as of the first day of the month on or before the fifteenth day of said month and the value of said deposit shall in no event be less than five thousand dollars ($5,000).

"§ 85A-31. *Securities held in trust by Commissioner, authority to dispose of same.*—The securities deposited by a professional bondsman with the Commissioner shall be held in trust for the sole protection and benefit of the holder of bail bonds executed by or on behalf of the undersigned bondsman in this State. A pro rata portion of the securities shall be returned to the bondsman when the Commissioner is satisfied that the deposit of securities is in excess of the amount required to be maintained with him by said bondsman and all the securities shall be returned if the Commissioner is satisfied that the bondsman has satisfied, or satisfactory arrangements have been made to satisfy, the obligations of the bondsman on all his bail bonds written in the State. The Commissioner may sell or transfer any and all of said securities or utilize the proceeds thereof for the purpose of satisfying the liabilities of the professional bondsman on bail bonds given in this State on which he is liable.

"§ 85A-32. *Bondsman to furnish power of attorney with securities.*—With the securities deposited with the Commissioner, the professional bondsman shall at the same time deliver to the Commissioner of Insurance a power of attorney, on a form supplied by the Commissioner, executed and acknowledged by the professional bondsman authorizing the sale or transfer of said securities or any part thereof. The power of attorney shall read as follows:

POWER OF ATTORNEY
AUTHORIZING THE COMMISSIONER OF INSURANCE TO SELL, OR TRANSFER SECURITIES DEPOSITED BY PROFESSIONAL BONDSMEN IN NORTH CAROLINA.

KNOW ALL MEN BY THESE PRESENTS, That

_____

_____ a professional bondsman, located in the County of _____, in the State of _____, has authorized and appointed for himself, his successors, heirs and assigns, the Commissioner of Insurance of the State of North Carolina, in the name and in behalf of said professional bondsman his true and lawful attorney to sell or transfer any securities deposited or that may be deposited, by said professional bondsman with said Commissioner, under the laws and regulations requiring a deposit of securities to be made by professional bondsmen doing business in the State of North Carolina, insofar as the sale or transfer is deemed necessary by the Commissioner of Insurance to pay any liability arising under a bond which purports to be given by the undersigned bondsman in any county in this State and execution has been issued against said bondsman pursuant to a judgment on the bond and the same has not been satisfied. The securities so deposited are to be held in trust by the Commissioner for the sole protection and benefit of the holder of bail bonds executed by, or on behalf of, the undersigned bondsman

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal this _____ day of _____, 19__.

_____

Professional Bondsman

Before me, a Notary Public in and for the State of _____ personally appeared _____, a professional bondsman who acknowledged that he executed the foregoing power of attorney.

WITNESS my hand and Notarial Seal, this _____ day of ____, 19__.

_____

Notary Public

My Commission Expires: _____

"§ 85A-33. *Security deposit to be maintained.*—Any professional bondsman, whose security deposits with the Commissioner are, for any reason, reduced in value below the requirements of this Chapter, shall immediately upon receipt of a notice of deficiency from the Commissioner of Insurance deposit such additional securities as are necessary to comply with the law. No professional bondsman shall sign, endorse, execute or become surety on any additional bail bonds, or pledge or deposit any cash, check, or other security of any nature in lieu of a bail bond in any county in North Carolina until such time as he has made such additional deposit of securities as shall be required by the notice of deficiency.

"§ 85A-34. *Monthly report required.*—Each professional bail bondsman shall file with the Commissioner of Insurance a written report in form prescribed by the Commissioner regarding all bail bonds on which he is liable as of the first

day of each month showing (1) each individual bonded, (2) the date such bond was given, (3) the principal sum of the bond, (4) the State or local official to whom given and, (5) the fee charged for the bonding service in each instance. Such report shall be filed on or before the fifteenth (15th) day of each month. Within the same time, a copy of this written report must also be filed with the clerk of superior court in any county in which he is obligated on bail bonds.

"§ 85A-35. *Examinations.*—Whenever the Commissioner deems it prudent he shall visit and examine or cause to be visited and examined by some competent person appointed by him for that purpose any professional bail bondsman subject to the provisions of this Chapter. For this purpose the Commissioner or person making the examination shall have free access to all books and papers of the bondsman that relate to his business and to the books and papers kept by any of his agents or runners.

"§ 85A-36. *Limit on principal amount of bond to be written by professional bondsman.*—No professional bondsman shall act as surety on any bail bond whose principal sum is in excess of one fourth (1/4) of the value of the securities deposited with the Commissioner at that time.

"§ 85A-37. *Disposition of fees.*—Fees collected by the Commissioner pursuant to this Chapter shall be paid into the General Fund of the State.

"§ 85A-38. *Penalties for violations.*—Any person, firm, association or corporation violating any of the provisions of this Chapter shall upon conviction for each offense be fined not more than five hundred dollars ($500.00) or imprisoned for not more than six months, or both.

"§ 85A-39. *Duplication of regulation forbidden.*—No county, city or town in this State shall license or levy a license tax on bail bondsmen nor require such bondsmen to deposit collateral security as a condition for continuing to write bail bonds."

Sec. 2. Section 41.1 of Chapter 105 of the General Statutes of North Carolina and all laws and clauses of laws in conflict with the provisions of the act are hereby repealed. Provided, however, that in the event of any conflict between the provisions of this act and those of Chapter 15A of the General Statutes of North Carolina, the provisions of Chapter 15A shall control and continue in full force and effect.

Sec. 3. This act shall not apply to Robeson County or New Hanover County.

Sec. 4. This act shall become effective on October 1, 1975.

In the General Assembly read three times and ratified, this the 16th day of June, 1975.

H. B. 389 CHAPTER 620

AN ACT TO AMEND ARTICLE 4 CHAPTER 113 OF THE GENERAL STATUTES RELATING TO THE PROTECTION AND DEVELOPMENT OF FORESTS AND FIRE CONTROL, AND FOR OTHER PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-54, as the same appears in the 1974 Cumulative Supplement to Volume 3A of the General Statutes, is amended by striking the words "shall make arrests for violation of forest laws", appearing in lines 3-4 thereof.

Sec. 2. G.S. 113-55 is rewritten in its entirety to read as follows:

"§ 113-55. *Powers of forest rangers to prevent and extinguish fires.*—Forest rangers shall prevent and extinguish forest fires and shall have control and direction of all persons and equipment while engaged in the extinguishing of forest fires. During a season of drought, the Secretary of the Department of Natural and Economic Resources or his designate may establish a fire patrol in any district, and in case of fire in or threatening any forest or woodland, the forest ranger shall attend forthwith and use all necessary means to confine and extinguish such fire. The forest ranger or deputy forest ranger may summon any resident between the ages of 18 and 45 years, inclusive, to assist in extinguishing fires and may require the use of crawler tractors and other property needed for such purposes; any person so summoned and who is physically able who refuses or neglects to assist or to allow the use of equipment and such other property required shall be guilty of a misdemeanor and upon conviction shall be subject to a fine of not less than fifty dollars ($50.00) nor more than one hundred dollars ($100.00). No action for trespass shall lie against any forest ranger, deputy forest ranger, or person summoned by him for crossing lands, backfiring, burning out or performing his duties as a forest ranger or deputy forest ranger."

Sec. 3. Article 4 of Chapter 113 of the General Statutes is amended by inserting a new section to be designated G. S. 113-55.1.

"§ 113-55.1. *Powers of forest law enforcement officers.*—The Secretary of the Department of Natural and Economic Resources is authorized to appoint as many forest law enforcement officers as he deems necessary to carry out the forest law enforcement responsibilities of the Department of Natural and Economic Resources. Forest law enforcement officers shall have all the powers and the duties of a forest ranger enumerated in G.S. 113-54 and G.S. 113-55. Forest law enforcement officers shall, in addition to their other duties, enforce all statutes of this State now in force or that hereafter may be enacted for the protection of forests and woodlands from fire, insects, or disease and for the obstructing of streams and drainage ditches in forests or woodlands and shall make arrests for violation of forest laws and for violation of G.S. 77-13 and G.S. 77-14 occurring in forests or woodlands. Any forest law enforcement officer may arrest, without warrant, any person or persons committing any crime in his presence or whom such officer has probable cause for believing has committed a crime in his presence and bring such person or persons forthwith before a district court or other officer having jurisdiction. Forest law enforcement officers shall also have authority to obtain and serve warrants including warrants for violation of any duly promulgated regulation of the Department of Natural and Economic Resources."

Sec. 4. G.S. 113-92, as the same appears in the 1974 Cumulative Supplement to Volume 3A of the General Statutes, is rewritten in its entirety to read as follows:

"§ 113-92. *Officers constituted deputy game protectors.*—All sheriffs, deputy sheriffs, police officers, forest law enforcement officers, park patrolmen and all other peace officers are hereby made deputy game protectors, and it shall be their duty to aid in the enforcement of this law."

Sec. 5. It is the intent and purpose of this act to exclude from the provisions of Chapter 17A of the General Statutes and any rules or regulations adopted by the North Carolina Criminal Justice Training and Standards Council, all forest rangers of the Department of Natural and Economic

Resources except those forest rangers and deputy forest rangers designated in writing by the Secretary of the Department of Natural and Economic Resources as forest law enforcement officers to the North Carolina Criminal Justice Training and Standards Council.

Sec. 6. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1975.

H. B. 497 CHAPTER 621

AN ACT REVISING BENEFITS OF THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM WITHOUT REQUIRING ANY INCREASE IN THE EMPLOYER CONTRIBUTION RATE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 128-27 is hereby amended by the addition of a new subsection (r) to read as follows:

"(r) Notwithstanding any other provision of this act, the increase in the allowance to each beneficiary on the retirement rolls as otherwise provided in G.S. 128-27(k) shall be the current maximum of four per centum (4%) plus an additional four per centum (4%) to a total of eight per centum (8%) on July 1, 1975, and July 1, 1976, provided the increases do not exceed the actual percentage increase in the cost of living as determined in G.S. 128-27(k). The provisions of this paragraph shall apply also to the allowance of a surviving annuitant of a beneficiary. The cost of these increases shall be borne from the funds of the Retirement System."

Sec. 2. G.S. 128-27 is hereby amended by the addition of a new subsection (s) to read as follows:

"(s) Increases in benefits to those persons on Disability Retirement who were retired prior to July 1, 1971. From and after July 1, 1975, the monthly benefits to members who commenced receiving disability benefits prior to July 1, 1965, shall be increased one percent (1%) thereof for each year by which the member retired prior to age 65 years; the monthly benefits to members who commenced receiving disability benefits after June 30, 1963, and before July 1, 1971, shall be increased by five percent (5%) thereof. These increases shall be calculated before monthly retirement allowances as of June 30, 1975, have been increased to the extent provided in the preceding provisions of this Chapter."

Sec. 3. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 16th day of June, 1975.

H. B. 510 **CHAPTER 622**

AN ACT TO MAKE TECHNICAL AMENDMENTS TO THE LAW RELATING TO PURCHASE-TRANSPORTATION PERMITS.

The General Assembly of North Carolina enacts:

Section 1. Subsection (a) of G.S. 18A-28 is amended by adding thereto at the end of the third line after the word "county" and before the semicolon the words "or counties adjacent thereto".

Sec. 2. Subsection (d) of G.S. 18A-28 is amended by deleting therefrom the time "6:00 p.m." and substituting therefor the time "9:30 p.m.".

Sec. 3. Subsection (e) of G.S. 18A-28 is amended by adding thereto the following sentence:

"Provided further, that the manager and the assistant manager of any alcoholic control store may issue such permits if authorized in writing by the chairman of said board to do so."

Sec. 4. Subsection (f) of G.S. 18A-28 is amended by deleting therefrom the time "6:00 p.m." and substituting therefor the time "9:30 p.m.".

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1975.

H. B. 567 **CHAPTER 623**

AN ACT TO CREATE A NORTH CAROLINA PROFESSIONAL LIABILITY INSURANCE STUDY COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Commission created, purpose. There is hereby created a Professional Liability Insurance Study Commission. The commission shall have the responsibility to make a thorough and comprehensive study on any and all aspects of professional liability insurance including but not limited to the following:

(1) The problems which insurance companies face in writing professional liability insurance in North Carolina and other states of the Union.

(2) The problems which professionals (particularly professionals in the health care professions) have in obtaining professional liability insurance in North Carolina, including problems dealing with the adequacy of coverage, limits of coverage, availability of coverage and reasonableness of rates.

(3) The desirability and feasibility of: (a) Affording professional liability insurance through the establishment of a State-operated fund or insurance company; (b) Creating a State Administrative Board or Commission with the necessary expertise to hear and determine questions of fact relating to professional malpractice and the amount of damages injured persons are entitled to recover resulting therefrom; (c) Implementing compulsory arbitration procedures for the determination of professional malpractice disputes; and (d) Improving the quality of professional services through strict supervision and control by State licensing boards.

(4) The desirability and feasibility of (a) amending the Statute of Limitations with reference to professional malpractice claims; (b) eliminating contingent fee contracts between attorneys and clients in malpractice claims;

and (c) implementing a joint underwriting association or reinsurance pool underwritten by insurers or the State or federal government.

Sec. 2. Appointment of membership; composition; tenure of office. The commission shall consist of 12 members who shall be appointed as follows: The Speaker of the House shall appoint six members, four persons from membership of the House, one person representing insurance companies writing professional liability insurance in this State and one person who shall be a professional in the delivery of health care services in this State. The President of the Senate shall appoint six members, four from the membership of the Senate, one person representing insurance companies writing professional liability insurance in this State, and one person who shall be a professional in the delivery of health care services in this State. The members shall serve until the termination of the commission. If a vacancy occurs in the membership, the appointing authority shall appoint another person to serve until the termination of the commission. Members of the commission shall take office upon their appointment. The commission shall terminate upon the filing of a report with the General Assembly.

Sec. 3. Duty to report. The commission shall submit a written report and recommendations, including recommended legislation, to the General Assembly on or before March 15, 1976, or as soon thereafter as practicable.

Sec. 4. Organization of commission; employment of professional and clerical staff. The members of the commission shall elect one of their members as chairman and one member as vice-chairman. The chairman shall preside at all meetings of the commission and in his absence the vice-chairman shall act as chairman. The commission is authorized to employ such professional and clerical staff and assistants as are necessary to the performance and execution of its duties from such funds as shall be made available for this purpose.

Sec. 5. Compensation and reimbursement of members. (a) Legislator members of the commission shall be reimbursed for subsistence and travel expenses at the rates set out in G.S. 120-3.1 from funds available to the commission.

(b) The other members of the commission who are not officers or employees of the State shall receive compensation and reimbursement for travel and subsistence expenses at the rates set out in G.S. 138-5 from funds available to the commission.

(c) The members of the commission who are officers or employees of the State shall receive reimbursement for travel and subsistence expenses at the rates set out in G.S. 138-6 from funds available to the commission.

Sec. 6. State departments and agencies to cooperate. Upon request of the commission, State departments and agencies shall provide the commission with any information and assistance that the commission shall deem helpful to its inquiry.

Sec. 7. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1975.

H. B. 809 **CHAPTER 624**

AN ACT TO PROTECT AND PRESERVE STUDENT RECORDS IN THE PUBLIC SCHOOLS.

The General Assembly of North Carolina enacts:

Section 1. The official record of each student enrolled in North Carolina public schools shall be permanently maintained in the files of the appropriate school after the student graduates, or should have graduated, from high school.

Sec. 2. The "official record" shall contain, as a minimum, adequate identification data (including date of birth), attendance data, grading and promotion data, and such other factual information as may be deemed appropriate by the local board of education having jurisdiction over the school wherein the record is maintained.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1975.

H. B. 854 **CHAPTER 625**

AN ACT TO AMEND G.S. 136-107 TO GIVE JUDGES THE POWER TO EXTEND TIME FOR FILING ANSWER FOR GOOD CAUSE SHOWN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-107 is hereby amended by striking the last sentence and substituting the following therefor:

"Provided, however, at any time prior to the entry of the final judgment the judge may, for good cause shown and after notice to the plaintiff, extend the time for filing answer for 30 days."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1975.

H. B. 967 **CHAPTER 626**

AN ACT TO PERMIT MAGISTRATES AND CLERKS OF COURT TO ENTER PLEAS OF GUILTY IN WORTHLESS CHECK CASES PRIOR TO TRIAL DATE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-1011(a) is hereby amended to add a new subdivision to read as follows:

"(6) The defendant, before a magistrate or clerk of court, enters a written appearance, waiver of trial and plea of guilty and at the same time makes restitution in a case wherein the sole allegation is a violation of G.S. 14-107, the amount of the check is three hundred dollars ($300.00) or less, and the warrant does not charge a fourth or subsequent violation of this statute."

Sec. 2. G.S. 7A-180 is hereby amended to add a new subsection (8) to read as follows:

"(8) Has the power to accept written appearances, waivers of trial and pleas of guilty to violations of G.S. 14-107 when restitution is made, the amount of the check is three hundred dollars ($300.00) or less, and the warrant does not charge a fourth or subsequent violation of this statute, and, in such cases, to

enter such judgments as the chief district judge shall direct and, forward the amounts collected as restitution to the appropriate prosecuting witnesses and to collect the costs;".

Sec. 3. G.S. 7A-181(2) is hereby rewritten to read as follows:

"(2) Have the same powers as the clerk of superior court with respect to the issuance of warrants and acceptance of written appearances, waivers of trial and pleas of guilty; and".

Sec. 4. G.S. 7A-273 is hereby amended to add a new subsection (7) to read as follows:

"(7) To accept written appearances, waivers of trial and pleas of guilty to violations of G.S. 14-107 and enter such judgments as the chief district judge shall direct, when the amount of the check is three hundred dollars ($300.00) or less, restitution is made, and the warrant does not charge a fourth or subsequent violation of this statute."

Sec. 5. This act shall become effective on the effective date of Chapter 1286 - Session Laws 1973 (G.S. Chapter 15A).

In the General Assembly read three times and ratified, this the 16th day of June, 1975.

H. B. 973 CHAPTER 627

AN ACT TO LIMIT THE PRESCRIBING, COMPOUNDING AND DISPENSING OF DRUGS BY CERTAIN PERSONS APPROVED BY THE NORTH CAROLINA BOARD OF MEDICAL EXAMINERS AND THE NORTH CAROLINA BOARD OF PHARMACY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 90 of the North Carolina General Statutes is amended by adding a new section to read as follows:

"§ 90-18.1. *Limitation on physician's assistants and registered nurses authorized to prescribe, compound and dispense drugs.*—Any registered nurse or assistant to a physician who is approved to perform medical acts under the provisions of G.S. 90-18 is authorized to prescribe drugs under written standing orders of the supervising physician, if such function is specifically approved for that person by the Board of Medical Examiners; in accordance with such other safeguards and regulations as promulgated by such board.

Any such person authorized to prescribe drugs shall be identified by a number assigned by the Board of Medical Examiners and such number shall be indicated in all prescriptions both oral and written.

Any such person is authorized to compound and dispense drugs when such functions are performed under the supervision of a licensed pharmacist in a manner prescribed by rules and regulations adopted by the North Carolina Board of Pharmacy."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1975.

H. B. 978 **CHAPTER 628**

AN ACT RELATING TO RAFFLES AND THE GAME OF "BINGO" IN MECKLENBURG COUNTY AND BUNCOMBE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It shall be lawful to operate raffles and the game of "bingo" in Mecklenburg County and Buncombe County in connection with conventions, bazaars, dinners or exhibitions sponsored by church, religious, civic, charitable, social, patriotic, fraternal, school, educational, political or trade associations of the county. All proceeds derived from such games shall inure to the above named nonprofit organization. No proceeds shall be deducted for administration, management or any operating expenses other than for prizes.

Sec. 2. Chapter 650 of the 1945 Session Laws is hereby repealed in its entirety.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1975.

H. B. 1073 **CHAPTER 629**

AN ACT TO PERMIT CERTAIN RETIREMENT SYSTEM CREDITS FOR EMPLOYEES OF THE OFFICE OF CLERK OF SUPERIOR COURT OF CABARRUS COUNTY PRIOR TO SUCH TIME AS THEY WERE ASSIMILATED BY THE ADMINISTRATIVE OFFICE OF THE COURTS.

The General Assembly of North Carolina enacts:

Section 1. With the approval of the Board of Commissioners of Cabarrus County, retirement service credit in the Teachers' and State Employees' Retirement System may be given to any employee or former employee of the office of Clerk of Superior Court of Cabarrus County for service performed prior to the time such employees were assimilated by the Administrative Office of the Courts in 1970; provided, such credit shall not be allowed unless the county's contribution and the employees' contributions, plus interest, are paid to the Teachers' and State Employees' Retirement System, in a single lump sum payment, such amount to be determined by the Retirement System; and, further provided that the individuals so covered have active accounts in the Teachers' and State Employees' Retirement System at the time the payments are made.

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 16th day of June, 1975.

H. B. 1149 CHAPTER 630

AN ACT TO AMEND CHAPTER 293 OF THE 1975 SESSION LAWS TO MODIFY THE DATES FOR THE INCORPORATION REFERENDUM AND ELECTION FOR TOWN OFFICERS OF THE TOWN OF CASWELL BEACH.

The General Assembly of North Carolina enacts:

Section 1. Chapter 293 of the 1975 Session Laws is amended as follows:

(a) Each time the date "April 16, 1975" appears, it is amended to read "July 9, 1975".

(b) Each time the date "April 18, 1975" appears, it is amended to read "July 11, 1975".

(c) Each time the date "May 20, 1975" appears, it is amended to read "August 12, 1975".

(d) Each time the date "May 21, 1975" appears, it is amended to read "August 13, 1975".

(e) Each time the date "May 23, 1975" appears, it is amended to read "August 15, 1975".

(f) Each time the date "May 30, 1975" appears, it is amended to read "August 22, 1975".

(g) Each time the date "June 17, 1975" appears, it is amended to read "September 9, 1975".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1975.

H. B. 1180 CHAPTER 631

AN ACT TO AMEND CHAPTER 385 OF THE PUBLIC-LOCAL LAWS OF 1921, RELATING TO PENSIONS FOR SCHOOL TEACHERS IN NEW HANOVER COUNTY, AS AMENDED.

The General Assembly of North Carolina enacts:

Section 1. Chapter 385 of the Public-Local Laws of 1921, as amended, is hereby amended by adding a new paragraph to Section 3(c), to read as follows:

"For purposes of meeting the requirement of 20 years of service for benefits under Sections 2 and 3, both continuous service and periods of broken service shall be recognized; provided that (1) any terminated employee of the New Hanover County School System, who was a member under the act and who had not completed 20 years of continuous or broken service as of his date of termination, shall forfeit all rights to complete said service requirement and to be reinstated as a member thereof unless such employee returned to the employ of the New Hanover County School System prior to August 6, 1974, and he or she is continuously employed thereafter until completion of the 20 years of service required for entitlement to benefits under the act; and (2) that any employee terminated after August 6, 1974, shall cease to be a member under the act and shall not be entitled to any benefit thereunder unless he or she has completed 20 years of service as of his date of termination."

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1975.

H. B. 1186 CHAPTER 632

AN ACT TO AUTHORIZE THE STOKES COUNTY BOARD OF COMMISSIONERS TO APPOINT FROM SEVENTEEN TO TWENTY-ONE MEMBERS TO THE STOKES-REYNOLDS MEMORIAL HOSPITAL BOARD OF TRUSTEES AND TO RATIFY PAST ACTS OF THE TRUSTEES.

The General Assembly of North Carolina enacts:

Section 1. The Stokes County Board of Commissioners may in its discretion provide for and appoint a 17- to 21-member Stokes-Reynolds Memorial Hospital Board of Trustees to serve five-year terms of office; provided, however, that members of the existing Stokes-Reynolds Memorial Hospital Board of Trustees may serve out their present terms of office.

Sec. 2. When a term of office of a member of the board of trustees expires or when a vacancy on the board of trustees occurs, after consulting with the hospital executive committee, the board of commissioners shall select a person to fill the office or vacancy. Members of the board of trustees may succeed themselves in office.

Sec. 3. All actions taken by the existing and past Stokes-Reynolds Memorial Hospital Boards of Trustees are hereby ratified.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1975.

H. B. 1211 CHAPTER 633

AN ACT TO PROVIDE A REFERENDUM TO INCREASE THE MEMBERSHIP OF THE CARTERET COUNTY BOARD OF EDUCATION AND BOARD OF COMMISSIONERS, AND TO PROVIDE FOR THEIR ELECTION.

The General Assembly of North Carolina enacts:

Section 1. On the date of the Presidential Primary Election to be held in 1976, pursuant to Article 18A of Chapter 163 of the General Statutes, the Carteret County Board of Elections shall submit to the qualified voters of the county the question of whether the membership of the county board of commissioners and the county board of education shall be increased to seven members. Notice of the election shall be given as provided in G.S. 163-33(8), and the special election shall be conducted in accordance with the general election laws of the State except as otherwise provided in this act.

There shall be a separate ballot furnished each qualified voter presenting himself to vote, which shall contain the following issue:

"FOR: Increasing the membership of the county board of education and the county board of commissioners to seven members.

AGAINST: Increasing the membership of the county board of education and county board of commissioners to seven members."

If a majority of those voting shall vote in favor of increasing the membership of the boards to seven, then Sections 2, 3 and 4 of this act shall

become effective upon the certification of the results by the county board of elections. If a majority of those voting shall vote against increasing the membership of the boards to seven, then Sections 2, 3 and 4 of this act shall be null and void.

Sec. 2. The Carteret County Board of Commissioners shall consist of seven members who shall be nominated and elected, as herein provided, for staggered terms of four years.

For the purpose of nominating and electing members of the county board of commissioners, the county is divided into five districts as follows:

District No. 1 shall consist of Cedar Island, Atlantic, Sea Level, Stacy, Davis, Williston, Smyrna, Marshallberg, Bettie, Otway and Straits precincts, and shall be entitled to one member on the board of commissioners.

District No. 2 shall consist of Harkers Island, Harlowe, Merrimon, Wiregrass, Beaufort No. 1 and Beaufort No. 2 precincts, and shall be entitled to two members on the board of commissioners.

District No. 3 shall consist of Wildwood, Morehead No. 1, Morehead No. 2 and Morehead No. 3 precincts, and shall be entitled to two members on the board of commissioners.

District No. 4 shall consist of Millcreek and Newport precincts, and shall be entitled to one member on the board of commissioners.

District No. 5 shall consist of Atlantic Beach, Pine Knoll Shores, Salter Path, Indian Beach, Emerald Isle, Cedar Point, Stella, Pelletier, Bogue and Board Creek precincts, and shall be entitled to one member on the board of commissioners.

Beginning with the regular primary to be held for county officers in 1976, and thereafter, each candidate shall be nominated by the voters of the district from which the candidate seeks nomination. Each candidate must be a resident and qualified voter of the district in which he seeks nomination.

In the general election to be held for county officers in 1976, and thereafter, the candidates nominated from each district shall be voted for by the voters of the entire county.

The candidates from Districts No. 1 and 4 receiving the highest number of votes shall be elected for terms of two years.

The candidate from District No. 5 receiving the highest number of votes shall be elected for a term of four years.

The candidates from Districts No. 2 and 3 receiving the highest number of votes shall be elected for terms of four years, and the candidate in each district receiving the next highest number of votes shall be elected for a term of two years.

As the term of each member expires, his successor shall be elected for a term of four years.

Sec. 3. The Carteret Board of Education shall consist of seven members who shall be nominated and elected as herein provided for staggered terms of four years.

District No. 1 shall consist of Cedar Island, Atlantic, Sea Level, Stacy, Davis, Williston, Smyrna, Marshallberg, Bettie, Otway and Straits precincts, and shall be entitled to one member on the board of education.

District No. 2 shall consist of Harkers Island, Harlowe, Merrimon, Wiregrass, Beaufort No. 1 and Beaufort No. 2 precincts, and shall be entitled to two members on the board of education.

District No. 3 shall consist of Wildwood, Morehead No. 1, Morehead No. 2 and Morehead No. 3 precincts, and shall be entitled to two members on the board of education.

District No. 4 shall consist of Millcreek and Newport precincts, and shall be entitled to one member on the board of education.

District No. 5 shall consist of Atlantic Beach, Pine Knoll Shores, Salter Path, Indian Beach, Emerald Isle, Cedar Point, Stella, Pelletier, Bogue and Broad Creek precincts, and shall be entitled to one member on the board of education.

Each candidate shall be nominated by the voters of the district from which the candidate seeks nomination. Each candidate must be a resident and qualified voter of the district in which he seeks nomination.

The present members of the board of education are assigned to districts as follows and their terms shall not be affected by this act: Mr. Salter to District No. 1; Mr. Gilliken to District No. 2; Mr. Parker to District No. 3; Mr. Freshwater to District No. 3; Mr. Holcomb to District No. 4.

Beginning with the regular primary and general election for county officers in 1976, one member shall be nominated and elected from District No. 2, one member from District No. 3, and one member from District No. 4, who shall serve for a term of four years each, and one member shall be nominated and elected from District No. 5 for a term of two years.

Thereafter as the terms of the present members expire, and as the terms of those additional members elected in 1976 expire, their successors shall be elected for terms of four years. In the general election candidates shall be voted for by the voters of the entire county school district.

Sec. 4. The board of county commissioners shall immediately after the return of every decennial census of population taken by order of Congress, revise the districts and the apportionment of the members of the county board of commissioners and the county board of education among the districts so that each member shall represent, as nearly as may be, an equal number of inhabitants, the number of inhabitants that each member represents being determined by dividing the population of the district that he represents by the number of members apportioned to that district.

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1975.

H. B. 498 CHAPTER 634

AN ACT REVISING BENEFITS OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM WITHOUT REQUIRING ANY INCREASE IN THE EMPLOYER CONTRIBUTION RATE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 135-5 is hereby amended by the addition of a new subsection (v) to read as follows:

"(v) Notwithstanding any other provision of this act, the increase in the allowance to each beneficiary on the retirement rolls as otherwise provided in G.S. 135-5(o) shall be the current maximum of four per centum (4%) plus an additional four per centum (4%) to a total of eight per centum (8%) on July 1, 1975, and July 1, 1976, provided the increases do not exceed the actual

percentage increase in the cost of living as determined in G.S. 135-5(o). The provisions of this paragraph shall apply also to the allowance of a surviving annuitant of a beneficiary. The cost of these increases shall be borne from the funds of the Retirement System unless the 1975 Session of the General Assembly provides an appropriation to fund this provision."

Sec. 2. G.S. 135-5 is hereby amended by the addition of a new subsection (w) to read as follows:

"(w) Increases in benefits to those persons on disability retirement who were retired prior to July 1, 1971. From and after July 1, 1975, the monthly benefits to members who commenced receiving disability benefits prior to July 1, 1963, shall be increased one percent (1%) thereof for each year by which the member retired prior to age 65 years; the monthly benefits to members who commenced receiving disability benefits after June 30, 1963, and before July 1, 1971, shall be increased by five percent (5%) thereof. These increases shall be calculated before monthly retirement allowances as of June 30, 1975, have been increased to the extent provided in the preceding provisions of this Chapter."

Sec. 3. Notwithstanding any other provisions of Chapters 1311 and 1312 of the 1973 Session Laws, the total annual cost to the employer of the benefits provided in these Chapters shall be funded from July 1, 1975, to July 1, 1977, by an appropriate adjustment in the years required to fund the accrued liability of the system unless the 1975 Session of the General Assembly funds these Chapters for the years beginning July 1, 1975, and July 1, 1976.

Sec. 4. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 17th day of June, 1975.

H. B. 857 CHAPTER 635

AN ACT TO FURTHER DEFINE THE RIGHTS OF HANDICAPPED PERSONS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 168 of the General Statutes is hereby amended by adding to the end thereof a new section which shall be designated as G.S. 168-9 and which shall read as follows:

"§ 168-9. *Right to housing.*—Each handicapped citizen shall have the same right as any other citizen to live and reside in residential communities, homes, and group homes, and no person or group of persons, including governmental bodies or political subdivisions of the State, shall be permitted, or have the authority, to prevent any handicapped citizen, on the basis of his or her handicap, from living and residing in residential communities, homes, and group homes on the same basis and conditions as any other citizen. Nothing herein shall be construed to conflict with provisions of Chapter 122 of the General Statutes."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of June, 1975.

H. B. 900 **CHAPTER 636**

AN ACT TO PROHIBIT OPERATION OF MOTOR VEHICLES UPON UTILITY EASEMENTS AFTER BEING FORBIDDEN TO DO SO.

The General Assembly of North Carolina enacts:

Section 1. Article 22 of Chapter 14 of the General Statutes is hereby amended by adding after G.S. 14-134.1 and before G.S. 14-135 a new section, G.S. 14-134.2, to read as follows:

"§ 14-134.2. *Prohibit operation of motor vehicles upon utility easements after being forbidden.*—(a) If any person, without permission, shall ride, drive or operate a minibike, motorbike, motorcycle, jeep, dune buggy, automobile, truck or any other motor vehicle upon a utility easement upon which the owner or holder of the easement or agent of the owner or holder of the easement has posted on the easement a 'no trespassing' sign or has otherwise given oral or written notice to the person not to so ride, drive or operate such a vehicle upon the said easement, he shall be guilty of a misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months or both, provided, however, neither the owner of the property nor the holder of the easement or their agents, employees, guests, invitees or permittees, shall be guilty of a violation under this subsection."

Sec. 2. This act shall become effective on and after July 1, 1975.

In the General Assembly read three times and ratified, this the 17th day of June, 1975.

H. B. 931 **CHAPTER 637**

AN ACT TO MAKE VARIOUS TECHNICAL AMENDMENTS RELATING TO TRUSTS AND ESTATES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-161(d)(4)(a), as found in the 1974 Cumulative Supplement to Volume 2D of the General Statutes, is amended by deleting the period at the end of the first full paragraph and by inserting the following:

"provided further, that trusts entitled to the deduction for amounts permanently set aside for charitable purposes under the provisions of Section 642(c) of the Internal Revenue Code of 1954, as amended, shall also qualify for such deduction under this division."

Sec. 2. (a) G.S. 37-20(a) is amended, in line 3, by inserting after the word "on" the words "the date after".

(b) G.S. 37-20(b)(2) is amended, in the last sentence, by inserting after the word "accruing" the words "on or".

Sec. 3. G.S. 33-42.1 is amended by rewriting the last three lines after the word "securities" to read as follows:

"have been examined within one year and that the securities were held at the time of the examination by the fiduciary or by a clearing corporation for the fiduciary and that the person making such certification has no reason to believe said securities are not still so held. Nothing herein contained shall be construed to abridge the inherent right of the clerk of the Superior Court to require the production of securities, should he desire to do so."

Sec. 4. G.S. 37-18 is amended by the addition of a new subsection to read as follows:

"(c) The exercise of powers of allocation of receipts and expenditures contained in or incorporated by reference to G.S. 32-27(29) in wills dated prior to the effective date of this Chapter shall continue to be valid."

Sec. 5. G.S. 28A-21-2(a) is amended in line 4 by the deletion of the period after the word "qualification" and the insertion of the following: "or within six months after his receipt of the State Inheritance Tax Release, whichever is later."

Sec. 6. Section 1 of this act shall be effective from January 1, 1974. Sections 2, 3, 4 and 5 of this act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of June, 1975.

H. B. 1167 CHAPTER 638

AN ACT TO AMEND CHAPTER 776 OF THE SESSION LAWS OF 1951, TO ALLOW PAYMENT OF MOREHEAD CITY OBLIGATION.

The General Assembly of North Carolina enacts:

Section 1. The first paragraph of Section 2, Chapter 776 of the Session Laws of 1951, is hereby amended by eliminating the period at the end thereof and adding thereto the following:

", and may pay to the Town of Morehead City its indebtedness thereunto owing out of any funds it may have on hand."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of June, 1975.

S. B. 216 CHAPTER 639

AN ACT TO ALLOW INTERMITTENT CLOSING OF CERTAIN ROADS FOR FLOOD WATER RETENTION PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 136 of the General Statutes is amended by adding a new section to be numbered G.S. 136-65 and to read as follows:

"§ 136-65. *Applications for intermittent closing of roads within watershed improvement project by Board of Transportation; notice; regulation by Board; delegation of authority; markers.*—(a) Upon proper application by the Board of Commissioners of a Drainage District established under the provisions of Chapter 156 of the General Statutes of North Carolina, by the Board of Trustees of a Watershed Improvement District established under the provisions of Article 2 of Chapter 139 of the General Statutes, by the Board of County Commissioners of any county operating a county watershed improvement program under the provisions of Article 3 of Chapter 139 of the General Statutes, by the Board of Commissioners of any Watershed Improvement Commission appointed by a Board of County Commissioners or by the Board of Supervisors of any Soil and Water Conservation District designated by a Board of County Commissioners to exercise authority in carrying out a county watershed improvement program, the Board of Transportation for roads coming under its jurisdictional control, is hereby authorized to permit the intermittent closing of any secondary road within the boundaries of any watershed improvement project operated by the applicants, whenever in the judgment of

the Board of Transportation it is necessary to do so, and when the secondary road will be intermittently subject to inundation by flood waters retained by an approved watershed improvement project.

(b) Before any permit may be issued for the temporary inundation and closing of such a road, an application for such permit shall be made to the Board of Transportation by the public body having jurisdiction over the watershed improvement project. The application shall specify the secondary road involved, the anticipated frequency and duration of intermittent flooding of the secondary road involved, and shall request that a permit be granted to the applicant public body to allow the intermittent closing of the road.

(c) Upon receipt of such an application the Board of Transportation shall give public notice of the proposed action by publication once each week for two consecutive weeks in a newspaper of general circulation in the county or counties, within which the proposed intermittent closing of road or roads would occur; and such notices shall contain a description of the places of beginning and the places of ending of such intermittent closing. In addition, the Board of Transportation shall give notice to all public utilities or common carriers having facilities located within the rights-of-way of any roads being closed by mailing copies of such notices to the appropriate offices of the public utility or common carrier having jurisdiction over the affected facilities of the public utility or common carrier. Not sooner than 14 days after publication and mailing of notices, the Board of Transportation or the municipality may issue its permit with respect to such road.

(d) The Board of Transportation shall have the discretion to deny any application submitted pursuant to this section, or it may grant a permit on any condition it deems warranted. The Board, however, shall consider the use of alternate routes available during flooding of the roads, and any inconvenience to the public or temporary loss of access to business, homes and property. The Board shall have the authority to promulgate regulations for the issuance of permits under this section and it may delegate the authority for the consideration, issuance or denial of such permits to the State Highway Administrator. Any applicant granted a permit pursuant to this section shall cause suitable markers to be installed on the secondary road to advise the general public of the intermittent closing of the road or roads involved. Such markers shall be located and approved by the State Highway Administrator."

Sec. 2. Chapter 160A is hereby amended by adding a new section to be numbered G.S. 160A-299.1 and to read as follows:

"§ 160A-299.1. *Applications for intermittent closing of roads within watershed improvement project by municipality; notice; costs; markers.*—(a) Upon proper application by the Board of Commissioners of a Drainage District established under the provisions of Chapter 156 of the General Statutes by the Board of Trustees of a Watershed Improvement District established under the provisions of Article 2 of Chapter 139 of the General Statutes, by the Board of County Commissioners of any county operating a county watershed improvement program under the provisions of Article 3 of Chapter 139 of the General Statutes, by the Board of Commissioners of any Watershed Improvement Commission appointed by a Board of County Commissioners, or by the Board of Supervisors of any Soil and Water Conservation District designated by a Board of County Commissioners to exercise authority in carrying out a county watershed improvement program, any municipality for

roads or streets coming under its jurisdictional control is hereby authorized to permit the intermittent closing of any highway or public road within the boundaries of any watershed improvement project operated by the applicants, whenever in the judgment of the municipality it is necessary to do so, and when the highway or public road will be intermittently subject to inundation by flood waters retained by an approved watershed improvement project.

(b) Before any permit may be issued for the temporary inundation and closing of such a road, an application for such permit shall be made to the appropriate municipality by the public body having jurisdiction over the watershed improvement project. The application shall specify the highway, road, or street involved, and shall request that a permit be granted to the applicant public body to allow the intermittent closing of the road.

(c) Upon receipt of such an application the municipality shall give public notice of the proposed action by publication in a newspaper of general circulation in the county or counties, within which the proposed intermittent closing of road or roads would occur; and such notices shall contain a description of the places of beginning and the places of ending of such intermittent closing. In addition, the municipality shall give notice to all public utilities or common carriers having facilities located within the rights-of-way of any roads being closed by mailing copies of such notices to the appropriate offices of the public utility or common carrier having jurisdiction over the affected facilities of the public utility or common carrier. Not sooner than 14 days after publication and mailing of notices, the municipality may issue its permit with respect to such road.

(d) All cost in connection with the publication and mailing of notices shall be paid by the applicant. In the event any municipality issues a permit allowing the intermittent closing of a road, the permit shall contain a provision that the applicant public body having jurisdiction over the watershed improvement project causing the potential flooding shall cause suitable markers to be installed on the road to advise the general public of the intermittent closing of the road."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of June, 1975.

S. B. 396 **CHAPTER 640**

AN ACT TO PROVIDE FOR THE TRANSPORTATION AND STORAGE OF ALCOHOLIC BEVERAGES FOR SPECIAL OCCASIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 18A-15 is amended by adding the following subdivision:

"(17) To provide for the storage and transportation of alcoholic beverages for special occasions for a period of 48 hours prior to and following a special occasion by regulation and by the issuance of permits needed for control of such storage and transportation; provided, however, the transportation of alcoholic beverages shall be limited to five gallons at any one time."

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 17th day of June, 1975.

S. B. 407

CHAPTER 641

AN ACT TO AMEND ARTICLE V OF THE CONSTITUTION OF NORTH CAROLINA TO AUTHORIZE THE ISSUANCE OF REVENUE BONDS TO FINANCE OR REFINANCE HEALTH CARE FACILITY PROJECTS SUBJECT TO THE APPROVAL OF THE ELECTORATE.

The General Assembly of North Carolina enacts:

Section 1. Article V of the Constitution of North Carolina is hereby amended by adding a new section, to be designated as Section 8, immediately following Section 7 and to read as follows:

"Sec. 8. Health care facilities. Notwithstanding any other provisions of this Constitution, the General Assembly may enact general laws to authorize the State, counties, cities or towns, and other State and local governmental entities to issue revenue bonds to finance or refinance for any such governmental entity or any nonprofit private corporation, regardless of any church or religious relationship, the cost of acquiring, constructing, and financing health care facility projects to be operated to serve and benefit the public; provided, no cost incurred earlier than two years prior to the effective date of this section shall be refinanced. Such bonds shall be payable from the revenues, gross or net, of any such projects and any other health care facilities of any such governmental entity or nonprofit private corporation pledged therefor; shall not be secured by a pledge of the full faith and credit, or deemed to create an indebtedness requiring voter approval of any governmental entity; and may be secured by an agreement which may provide for the conveyance of title of, with or without consideration, any such project or facilities to the governmental entity or nonprofit private corporation. The power of eminent domain shall not be used pursuant hereto for nonprofit private corporations."

Sec. 2. The amendment set forth in Section 1 shall be submitted to the qualified voters of the State at the next general election or at the next statewide election, whichever is earlier, which shall be conducted under the laws then governing elections in the State. At said election, each qualified voter desiring to vote shall be provided a ballot on which shall be printed the following:

"FOR constitutional amendment to permit the General Assembly to enact general laws to authorize the State, counties, cities or towns, and other State and local governmental entities to issue revenue bonds to finance or refinance for any such governmental entity or any nonprofit private corporation, regardless of any church or religious relationship, the cost of acquiring, constructing and financing health care facility projects, such bonds to be payable from the revenues, gross or net, of any such projects and any other health care facilities of any such governmental entity or nonprofit private corporation pledged therefor.

"AGAINST constitutional amendment to permit the General Assembly to enact general laws to authorize the State, counties, cities or towns, and other State and local governmental entities to issue revenue bonds to finance or refinance for any such governmental entity or any nonprofit private corporation, regardless of any church or religious relationship, the cost of acquiring, constructing and financing health care facility projects, such bonds to be payable from the revenues, gross or net, of any such projects and any

other health care facilities of any such governmental entity or nonprofit private corporation pledged therefor."

Those qualified voters favoring the amendment shall vote by making an "X" or a check mark in the square beside the statement beginning "FOR", and those qualified voters opposed to the amendment shall vote by making an "X" or a check mark in the square beside the statement beginning "AGAINST".

Notwithstanding the foregoing provisions of this section, voting machines may be used in accordance with rules and regulations prescribed by the State Board of Elections.

Sec. 3. If a majority of votes cast thereon are in favor of the amendment, the State Board of Elections shall certify the amendment to the Secretary of State, who shall enroll the amendment so certified among the permanent records of his office, and the amendment shall become effective upon such certification.

Sec. 4. This act shall be deemed to provide an alternative method for the doing of the things authorized hereby, shall be regarded as supplemental and additional to powers conferred by other laws and shall not be regarded as in derogation of any powers now existing, and this act shall not be construed as a limitation or restriction on the power of the General Assembly to enact laws authorizing governmental entities to issue revenue bonds for health care purposes.

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of June, 1975.

S. B. 694 **CHAPTER 642**

AN ACT TO ALLOW A PROPERLY CERTIFIED COPY OF A DEPARTMENT OF MOTOR VEHICLES' RECORD OF PRIOR CONVICTIONS FOR DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS TO CONSTITUTE PRIMA FACIE EVIDENCE OF SUCH CONVICTIONS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 8 of the General Statutes of North Carolina is amended to add a new section as follows:

"§ 8-35.1. *Department of Motor Vehicles' record admissible as prima facie evidence of convictions under G.S. 20-138 and 20-139.*—Notwithstanding the provisions of G.S. 15A-924(d), a properly certified copy under G.S. 8-35 of the license records of a defendant kept by the Department of Motor Vehicles under G.S. 20-26(a) is admissible as prima facie evidence of any prior convictions of a defendant under G.S. 20-138 and G.S. 20-139."

Sec. 2. G.S. 15A-924(d) is amended to add a sentence as follows:

"Proof of previous convictions under G.S. 20-138 and G.S. 20-139 may be made in accordance with G.S. 8-35.1."

Sec. 3. This act shall become effective on October 1, 1975.

In the General Assembly read three times and ratified, this the 17th day of June, 1975.

S. B. 796

CHAPTER 643

AN ACT TO EXCLUDE FROM THE DEFINITION OF "CONTRACT OF INSURANCE" CERTAIN PRODUCT WARRANTIES COVERING MOTOR VEHICLES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-3.1 as the same appears in the 1975 Replacement Volume 2B of the General Statutes is hereby amended by adding at the end thereof the following:

"provided that a product guaranty or warranty which accompanies the sale of a product used in the maintenance or operation of a motor vehicle shall not be a contract of insurance under this Chapter."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of June, 1975.

S. B. 834

CHAPTER 644

AN ACT TO AMEND G.S. 20-176 TO REMOVE AN AMBIGUITY IN PUNISHMENT LIMITS FOR CERTAIN OFFENSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-176(b) as it appears in the 1974 Cumulative Supplement to Volume 1C of the General Statutes, is hereby rewritten to read as follows:

"(b) Unless another penalty is in this Article or by the laws of this State provided, every person convicted of a misdemeanor for the violation of any provision of this Article shall be punished by a fine of not more than one hundred dollars ($100.00) or by imprisonment in the county or municipal jail for not more than 60 days, or by both such fine and imprisonment."

Sec. 2. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 17th day of June, 1975.

S. B. 860

CHAPTER 645

AN ACT TO AMEND G.S. 106-91, RELATING TO AGRICULTURAL LIMING MATERIAL SO AS TO PERMIT THE BOARD OF AGRICULTURE TO REGULATE LIMING MATERIAL DERIVED FROM MARL DEPOSITS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 106-91, as the same appears in the 1975 Replacement Volume of Volume 3A of the General Statutes, is amended by inserting in the last line thereof, between the words "standards" and "as", the words "including minimum screening standards for agricultural liming materials derived from both ground limestone and marl deposits".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of June, 1975.

S. B. 866 **CHAPTER 646**

AN ACT TO AMEND ARTICLE 50A OF CHAPTER 106 OF THE GENERAL STATUTES, RELATING TO ASSESSMENTS ON FERTILIZER AND COMMERCIAL FEEDS FOR AGRICULTURAL RESEARCH.

The General Assembly of North Carolina enacts:

Section 1. G.S. 106-568.8 is amended by adding at the end thereof the following: "Any commercial feed excluded from the payment of the inspection fee required by G.S. 106-284.40 shall nevertheless be subject to the assessment provided for by this Article and to quarterly tonnage reports to the Department of Agriculture as provided for in G.S. 106-284.40(c)."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of June, 1975.

S. B. 912 **CHAPTER 647**

AN ACT TO AMEND THE SEDIMENTATION CONTROL ACT OF 1973 CONCERNING THE DEFINITION OF "WORKING DAYS"; LAND-DISTURBING ACTIVITIES DURING CONSTRUCTION THAT MAY AFFECT LAKES OR WATERCOURSES; AND PRECONSTRUCTION CONFERENCES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113A-52(11) is hereby amended by adding the words "or soil conditions" after the words "weather conditions" so that the sentence shall read:

"(11) 'Working days' means days exclusive of Saturday and Sunday during which weather conditions or soil conditions permit land-disturbing activity to be undertaken."

Sec. 2. G.S. 113A-57(1) is hereby amended by adding the words "during periods of construction or improvements to land" after the words "(1) no land-disturbing activity" so that line 1 of subdivision (1) shall read:

"(1) No land-disturbing activity during periods of construction or improvement to land shall be permitted in proximity to a lake or".

Sec. 3. G.S. 113A-51 (Preamble) is hereby amended by adding thereto at the end thereof the following sentence:

"In recognition of the desirability of early coordination of sedimentation control planning, it is the intention of the General Assembly that preconstruction conferences be held among the affected parties, subject to the availability of staff."

Sec. 4. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 17th day of June, 1975.

H. B. 617 **CHAPTER 648**

AN ACT TO MAKE VARIOUS CHANGES IN THE AUCTIONEER LICENSING LAW, INCLUDING CLARIFICATION OF LICENSE RENEWAL DATES AND FEE SCHEDULES, ADDITION OF THE REQUIREMENT OF THE USE OF ESCROW ACCOUNTS, AND CLARIFICATION OF WHICH ESTATES SALES ARE EXEMPT FROM THE REQUIREMENT OF USING A LICENSED AUCTIONEER.

The General Assembly of North Carolina enacts:

Section 1. G.S. 85B-3, as it appears in the 1974 Cumulative Supplement to Volume 2C of the General Statutes, is amended by rewriting subsection (g) to read as follows:

"(g) Members of the commission shall receive the compensation set for members of occupational licensing boards by G.S. 93B-5."

Sec. 2. G.S. 85B-4, as it appears in the 1974 Cumulative Supplement to Volume 2C of the General Statutes, is amended by deleting the word "Committee" in the last line of the second paragraph of subsection (d), and replacing it with the word "Commission".

Sec. 3. G.S. 85B-4, as it appears in the 1974 Cumulative Supplement to Volume 2C of the General Statutes, is further amended by rewriting the first sentence of subsection (e) to read as follows:

"Each license issued under this Chapter shall be valid from July 1 of the year issued, or from the date issued, whichever is later, to June 30 of the succeeding year and may be renewed for one year at a time, except an apprentice auctioneer license may not be renewed for more than three times."

Sec. 4. G.S. 85B-4, as it appears in the 1974 Cumulative Supplement to Volume 2C of the General Statutes, is amended by rewriting subsection (g) to read as follows:

"(g) A sole proprietorship, partnership, or corporation which in the regular course of business promotes auctions, employs auctioneers to conduct auctions in its facilities, or uses or allows the use of its facilities for auctions, must be licensed as an auctioneer business even though no owner or officer of that business acts as an auctioneer. To be licensed as an auctioneer business the sole proprietorship, partnership or corporation must file an approved bond as required for a licensed auctioneer by subsection (f) and must pay the proper fees as set out in G.S. 85B-6, but is not otherwise required to meet qualifications for an auctioneer license. Licensed auctioneer businesses shall be covered by the provisions of G.S. 85B-8."

Sec. 5. G.S. 85B-6, as it appears in the 1974 Cumulative Supplement to Volume 2C of the General Statutes, is amended by deleting the words "partnership or corporation" from lines 6 and 7 of the first paragraph and inserting in their place the word "business".

Sec. 6. G.S. 85B-8, as it appears in the 1974 Cumulative Supplement to Volume 2C of the General Statutes, is amended by changing the period at the end of subdivision (6) of subsection (a) to a semicolon and by adding the following new subdivision (7):

"(7) Commingling the money or property of a client with his own or failing to maintain and deposit in a trust or escrow account in an insured bank or savings and loan association located in North Carolina money received for another person through sale at auction."

Sec. 7. G.S. 85B-9, as it appears in the 1974 Cumulative Supplement to Volume 2C of the General Statutes, is amended by deleting the word "or" in the second line of subsection (a) and replacing it with the word "of".

Sec. 8. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of June, 1975.

H. B. 669 CHAPTER 649

AN ACT TO AMEND CHAPTER 993, SESSION LAWS OF 1949, AS AMENDED BY CHAPTER 732, SESSION LAWS OF 1951, CHAPTER 382, SESSION LAWS OF 1963, CHAPTER 289, SESSION LAWS OF 1969, AND CHAPTER 459, SESSION LAWS OF 1971, TO ENLARGE AND MAKE MORE DEFINITE THE OUTSIDE BOUNDARIES OF PINEHURST, MOORE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 993, Session Laws of 1949, is amended by rewriting Section 1 thereof to read as follows:

"Section 1. For all purposes of this act, but only for such purposes, all that territory within the area hereinafter described shall be and constitute the municipal corporation to be known and hereinafter referred to as Pinehurst, the said area being described as follows:

A certain tract of land located in Mineral Springs, McNeill's, Sandhills Townships, Moore County, North Carolina, more particularly described as follows:

Beginning at a concrete monument at corner common to the land of Pinehurst, Inc., with Chadwick and Barber lands, said monument whose values in accordance with the N. C. State Plane Coordinate Grid System are North @ 537,088.03', East @ 1,858,084.73'; thence with the Barber and Garrison line S 66° 19' 50" E, 1932.15' to an iron pipe at corner of the Garrison and Tom McKenzie lands; thence with the line of Tom McKenzie S 02° 45' 12" W, 1265.15' to an iron pipe; thence N 83° 21' 49" E, 569.50' to an iron pipe; thence N 30° 33' 19" E, 680.66' to a brown stone; thence N 05° 05' 33" W, 624.31' to an iron pipe; thence S 66° 02' 16" E, 2278.05' to an iron pipe; thence N 59° 23' 16" E, 1022.86' to an iron pipe; thence N 04° 08' 53" E, 1198.21' to a stone; thence N 56° 57' 20" E, 1251.30' to a concrete monument near the southern right-of-way of N.C.S.R. #1216; thence crossing N.C.S.R. #1216 and U.S. Highway #15-501, N 80° 33' 39" E, 835.64' to a concrete monument; thence S 36° 27' 41" E, 1002.20' to an iron pipe; thence N 46° 20' 22" E, 1342.97' to an iron pipe; thence N 73° 22' 33" W, 1002.60' to an iron pipe; thence N 08° 57' 38" W, 871.03' to an iron pipe, said corner being common to the lands of Henry Dowd Watson and Pinehurst, Inc.; thence N 84° 22' 19" E, 1860.58' to a concrete monument; thence N 84° 11' 15" E, 3873.89' to a concrete monument; thence S 00° 53' 57" W, 208.36' to a concrete monument; thence N 84° 11' 25" E, 208.16' to a concrete monument; thence S 01° 03' 30" W, 3517.70' to a concrete monument; thence S 88° 47' 00" W, 1043.56' to a concrete monument; thence S 01° 13' 09" E, 746.54' to a concrete monument; thence S 01° 13' 45" E, 16.58' to an iron pipe; thence N 86° 24' 10" W, 414.39' to a concrete monument; thence S 12° 57' 45" W, 2,043.16' to an iron pipe; thence N 87° 00' 13" W, 1164.10' to a concrete monument; thence S 02° 04'

00" W, 949.69' to a concrete monument; thence S 86° 33' 25" E, 748.20' to a concrete monument; thence N 84° 01' 15" E, 404.84' to a concrete monument; thence S 86° 58' 14" E, 400.00' to a concrete monument; thence S 03° 01' 47" W, 400.05' to a concrete monument; thence N 86° 56' 18" W, 399.74' to a concrete monument; thence S 03° 07' 44" W, 475.83' to a concrete monument; thence N 81° 46' 00" W, 1141.36' to a concrete monument; thence S 02° 04' 52" W, 1293.79' to a concrete monument; thence S 02° 02' 47" W, 1736.81' to a concrete monument, said monument located on the southern right-of-way of Midland Road; thence along the southern right-of-way of Midland Road N 80° 12' 53" W, 878.45' to a concrete monument on the southern right-of-way of Midland Road; thence S 02° 07' 21" W, 1007.28' to an iron pipe; thence S 80° 12' 53" E, 879.80' to a concrete monument; thence S 80° 13' 05" E, 4851.66' to a concrete monument; thence S 80° 12' 25" E, 2118.77' to a concrete monument; thence S 80° 12' 30" E, 1699.95' to a concrete monument; thence S 09° 34' 40" W, 968.67' to a concrete monument; thence N 88° 37' 04" W, 2341.79' to a concrete monument; thence S 02° 05' 16" W, 813.99' to a concrete monument; thence N 80° 31' 51" W, 2906.54' to a concrete monument; thence S 49° 03' 06" W, 1066.45' to a concrete monument, said monument being a common corner between Pinehurst, Inc., Voit Gilmore and Pinecrest School; thence along the Pinecrest School line S 49° 15' 21" W, 2577.44' to a concrete monument; thence S 49° 17' 01" W, 54.16' to a concrete monument; thence N 87° 32' 50" W, 295.04' to a concrete monument; thence S 50° 53' 10" W, 506.32' to a concrete monument, said monument located on the Northeasterly right-of-way line of Highway #15-501; thence along the northeasterly right-of-way line of U.S. Highway #15-501 S 44° 26' 53" E, 909.08' to a point on the northeasterly right-of-way of said highway; thence crossing U.S. Highway #15-501, N 89° 02' 51" W, 712.50' to a concrete monument; thence S 01° 27' 09" W, 940.81' to a concrete monument; thence N 88° 21' 57" W, 393.28' to a concrete monument; thence N 02° 09' 45" E, 297.00' to a concrete monument; thence N 55° 03' 55" W, 689.81' to a concrete monument located on the centerline of a gas line right-of-way; thence along said gas line right-of-way S 37° 16' 32" W, 1161.45' to a concrete monument located on the centerline of gas line right-of-way and the southern right-of-way line of Morganton Road; thence continuing along the centerline of the gas line right-of-way S 37° 16' 32" W, 3523.25' to a concrete monument; thence continuing with said gas line right-of-way S 20° 08' 24" E, 301.62' to a concrete monument; thence leaving said gas line right-of-way N 87° 34' 15" W, 754.73' to a concrete monument; thence N 75° 36' 49" W, 1502.20' to a concrete monument; thence S 77° 52' 14" W, 827.53' to a concrete monument; thence N 60° 36' 23" W, 547.95' to a concrete monument, said monument being corner common to the lands of Superior Stone Company, Carl Andrews and Pinehurst, Inc.; thence N 81° 45' 32" W, 640.40' to a concrete monument; thence N 59° 56' 08" W, 539.79' to a concrete monument; thence N 59° 55' 38" W, 859.11' to a concrete monument; thence N 59° 54' 57" W, 280.06' crossing N. C. Highway #5 to a point on the western right-of-way line of N. C. Highway #5; thence along the western right-of-way of N. C. Highway #5 S 27° 28' 02" W, 443.88' to the point of curvature of said highway; thence along said highway right-of-way 489.86' which follows a curve to the left, said curve having a central angle of 27° 20' 37", a radius of 1026.45' and a chord which bears south 13° 47' 44" W, 485.22' to a concrete monument on the western right-of-way of

said Highway #5; thence leaving said right-of-way S 79° 41' 45" W, 1349.71' to an iron pipe; thence N 87° 00' 17" W, 660.64' to a concrete monument; thence S 65° 53' 34" W, 2020.45' to a concrete monument; thence S 32° 54' 39" E, 303.94' to a concrete monument; thence S 11° 51' 21" W, 169.52' to a concrete monument; thence S 86° 29' 33" E, 323.31' to a concrete monument; thence S 00° 20' 42" E, 646.14' to a concrete monument; thence S 87° 05' 02" W, 475.32' to a concrete monument; thence N 70° 12' 04" W, 329.63' to a concrete monument; thence N 40° 13' 33" W, 491.63' to a concrete monument; thence S 22° 26' 03" W, 1300.49' to a concrete monument; thence S 42° 46' 27" E, 119.08' to a concrete monument; thence S 04° 01' 58" E, 308.63' to a concrete monument; thence S 30° 05' 55" E, 282.23' to a concrete monument; thence S 49° 33' 38" W, 1365.87' to a concrete monument, a corner common to Cole and Williams; thence S 34° 43' 33" W, 783.23' to a concrete monument on the northerly right-of-way of N.C.S.R. #1115; thence along the northerly right-of-way of N.C.S.R. #1115 the following courses: N 65° 20' 30" W, 104.27' to a point, N 61° 41' 34" W, 97.99' to a point, N 58° 12' 44" W, 98.12' to a point, N 54° 39' 47" W, 98.46' to a point, N 52° 32' 03" W, 99.01' to a point, N 50° 38' 12" W, 75.94' to a point in the center of Horses Creek; thence leaving the right-of-way of N.C.S.R. #1115 and following the centerline of Horses Creek the following courses: N 47° 23' 06" E, 77.02', N 06° 53' 50" W, 171.30', N 07° 55' 09" E, 144.63', N 01° 39' 11" W, 187.52', N 14° 43' 22" E, 106.23', N 14° 46' 34" E, 133.23', N 27° 10' 45" E, 80.48', N 34° 07' 00" E, 137.01', N 32° 41' 53" E, 127.70', N 46° 54' 28" E, 126.81', N 13° 00' 18" E, 236.20', N 11° 09' 38" W 146.33', N 00° 48' 24" W, 81.10' to a point in the center of Horses Creek; thence leaving the centerline of Horses Creek S 87° 55' 46" W, 920.31' to a concrete monument on the eastern right-of-way line of N.C.S.R. #1115; thence along said right-of-way following a curve to the left 321.62', said curve having a central angle of 16° 38' 08", a radius length of 1107.70', a chord which bears N 27° 48' 36" W, 320.49' to a concrete monument on said right-of-way; thence continuing along said right-of-way N 36° 07' 40" W, 716.86' to a concrete monument, the point of curvature of said right-of-way; thence along said highway right-of-way 381.44', which follows a curve to the left, said curve which has a central angle of 22° 02' 14", a radius of 991.74' and a chord which bears N 47° 08' 47" W, 379.10' to a concrete monument on said right-of-way; thence leaving said highway right-of-way N 02° 02' 39" W, 628.00' to a concrete monument; thence S 87° 54' 35" W, 190.00' to a concrete monument; thence N 22° 17' 41" W, 1390.14' to a concrete monument; thence N 22° 24' 54" W, 664.58' to a concrete monument; thence S 87° 58' 23" W, 2064.58' to a concrete monument on the eastern right-of-way of Linden Road; thence along the eastern right-of-way of Linden Road N 01° 38' 58" E, 724.31' to a concrete monument; thence leaving said right-of-way N 87° 28' 18" E, 1397.38' to a concrete monument; thence N 87° 31' 37" E, 1071.62' to a concrete monument; thence N 01° 27' 09" E, 862.20' to a concrete monument; thence S 87° 47' 32" W, 350.08' to a concrete monument in the center of the Carolina Power and Light transmission line right-of-way; thence along the centerline of said transmission line right-of-way N 28° 02' 27" W, 2030.92' to a concrete monument on the southeasterly right-of-way line of Linden Road; thence along the southeasterly right-of-way line of Linden Road N 32° 15' 12" E, 341.21' to a concrete monument on said right-of-way line, Betty Dumaine's westerly corner with Pinehurst, Inc.; thence leaving said right-of-way line S 58° 28' 49"

E, 551.14' to a concrete monument; thence S 83° 36' 30" E, 764.17' to a concrete monument; thence N 31° 34' 18" E, 768.83' to a concrete monument; thence N 05° 07' 57" W, 96.61.' to a concrete monument; thence N 27° 30' 08" W, 299.87' to a concrete monument; thence N 13° 16' 42" E, 179.00' to a concrete monument; thence N 00° 28' 18" W, 239.58' to a concrete monument; thence W 16° 38' 34" E, 418.75' to a concrete monument, a corner common to the lands of Betty Dumaine, Smith and Pinehurst, Inc.; thence along Smith line S 59° 30' 04" E, 908.84' to a concrete monument, a corner common to Smith, Carolina Clarendon Corporation and Pinehurst, Inc.; thence S 28° 24' 05" E, 656.57' to a concrete monument; thence S 58° 47' 23" E, 1800.56' to a concrete monument; thence N 05° 42' 35" E, 474.98' to a concrete monument; thence N 21° 21' 04" E, 1934.33' to a concrete monument; thence N 22° 45' 22" W, 373.84' to a concrete monument, a corner common to Carolina Clarendon Corporation, Ed King and Pinehurst, Inc.; thence along King's line N 38° 00' 25" E, 1242.12' to a concrete monument located on the southern right-of-way line of the Norfolk and Southern Railroad; thence N 38° 00' 25" E, 75.73' to a point on the centerline of said railroad; thence along centerline of said railroad N 89° 42' 47" W, 407.54' to a point; thence N 18° 07' 10" W, 63.17' to a concrete monument located on the northerly right-of-way line of said railroad; thence leaving said railroad right-of-way N 18° 07' 10" W, 392.26' to a concrete monument located on the south right-of-way line of Linden Road; thence along the south right-of-way line of Linden Road S 78° 58' 42" W, 414.81' to a concrete monument on said right-of-way; thence crossing Linden Road N 00° 05' 19" E, 61.20' to a concrete monument located on the north right-of-way line of Linden Road; thence leaving said right-of-way line N 00° 06' 19" E, 1188.07' to a concrete monument, a corner common to the Parson lands; thence with Parson's line S 89° 52' 20" E, 814.47' to a concrete monument, Parson's corner; thence N 00° 15' 31" E, 462.28' to a concrete monument, Parson's corner; thence N 72° 07' 58" W, 1372.12' to an iron pipe, Parson's corner; thence with Parson's line S 00° 17' 30" W, 420.41' to a concrete monument, Parson's corner; thence N 89° 38' 24" W, 287.46' to a concrete monument, Parson's corner; thence continuing with Parson's line S 00° 23' 50" W, 619.74' to a concrete monument, a corner common to the Parson's Estate and the Buchannan lands; thence S 11° 03' 16" E, 162.15' to a concrete monument; thence S 78° 58' 11" W, 189.99' to a concrete monument, Petterson's northeast corner; thence with Petterson's line S 78° 58' 11" W, 330.02' to a concrete monument; thence continuing with Petterson's line S 11° 02' 30" E, 997.29' to a concrete monument located in the northerly right-of-way line of Linden Road; thence along the northern right-of-way line of Linden Road S 79° 07' 23" W, 355.07' to a concrete monument, said monument being the point of curvature on said right-of-way; thence along said right-of-way line 280.48' which follows a curve to the left, said curve having a central angle of 07° 37' 03", a radius length of 2109.69', a chord which bears S 75° 18' 51" W, 280.28' to a concrete monument on said right-of-way line, said concrete monument being located at the intersection of the northern right-of-way line of Linden Road with the northern right-of-way line of Norfolk - Southern Railroad; thence along said highway right-of-way 138.10' which follows a curve to the left, said curve having a central angle of 03° 45' 02", a radius length of 2109.69' and a chord which bears S 69° 37' 49" W, 138.07' to a point on said right-of-way; thence S 67° 45' 18" W, 186.33' to a point, said point being the intersection of the

northern right-of-way line of Linden Road with the southern right-of-way line of the Norfolk - Southern Railroad; thence S 67° 45' 18" W, 1108.25' to a point on the northern right-of-way line of Linden Road, said point being the point of curvature on said right-of-way line; thence along said highway right-of-way 422.61' which follows a curve to the left, said curve having a central angle of 36° 22' 26", a radius length of 665.70' and a chord which bears S 49° 34' 05" W, 415.55' to a point on said right-of-way; thence S 31° 22' 51" W, 340.40' to a concrete monument, said monument being located at the intersection of the northwesterly right-of-way line of Linden Road with the northerly right-of-way line of Old Morganton Road; thence S 31° 22' 51" W crossing Old Morganton Road (60 foot right-of-way) to a concrete monument situated at the intersection of the northwesterly right-of-way line of Linden Road with the southerly right-of-way line of Old Morganton Road; thence S 31° 22' 51" W 342.63 feet to a concrete monument located in the northwesterly right-of-way line of Linden Road, said monument who values in accordance with the N. C. State Plane Coordinate Grid System are as follows: N=523,853.78 feet and E=1,850,241.03 feet; thence N 66° 30' 36" W 554.93 feet to a concrete monument; thence N 84° 02' 51" E 325.87 feet to a concrete monument; thence N 31° 57' 29" E 208.37 feet to a concrete monument in the southerly right-of-way line of Old Morganton Road; thence N 31° 57' 29" E crossing Old Morganton Road (60 foot right-of-way) to a point in the northerly right-of-way line of Old Morganton Road; thence with the northerly right-of-way line of Old Morganton Road N. 74-10-56 W. 751.67 feet to a point, said point being the point or curvature in said right-of-way line; thence along said right-of-way line 163.23' which follows a curve to the left, said curve having a central angle of 16° 58' 39", a radius length of 550.87', a chord which bears N 82° 40' 15" W, 162.63' to a concrete monument, said monument being the southeasterly corner of the Morgan tract; thence with the Morgan line N 14° 40' 28" W, 294.23' to a concrete monument, said monument being the northeast corner of the Morgan tract; thence continuing with the Morgan line S 75° 20' 32" W, 475.80' to a concrete monument, said monument being the northwest corner of the Morgan tract; thence continuing with the Morgan line S 14° 39' 28" E, 319.38' to a concrete monument, said monument being the southwest corner of the Morgan tract and being located on the northerly right-of-way line of Old Morganton Road; thence along said right-of-way line S 67° 57' 57" W, 903.70' to a point on said right-of-way; thence along said right-of-way line 158.32' which follows a curve to the right, said curve having a central angle of 08° 07' 43", a radius length of 1115.92', a chord which bears S 72° 01' 48" W, 158.18' to a point on said right-of-way, said point being located on the centerline of the Carolina Power & Light transmission line right-of-way; thence continuing along the northerly right-of-way line of Old Morganton Road 420.29' which follows a curve to the right, said curve having a central angle of 21° 34' 46", a radius length of 1115.92', a chord which bears S 86° 53' 02" W, 417.81' to a point on said right-of-way; thence N 82° 19' 35" W, 849.14' to a point, said point being the point of curvature on said right-of-way line; thence along said right-of-way line 206.24' which follows a curve to the right, said curve having a central angle of 46° 04' 24", a radius length of 256.48', a chord which bears N 59° 17' 23" W, 200.73' to a point on said right-of-way; thence N 36° 15' 11" W, 89.19' to a point, said point being the point of curvature on said right-of-way line; thence along said highway right-of-way 391.07' which follows a curve to the left, said

curve having a central angle of 51° 33' 08", a radius length of 434.64, a chord which bears N 62° 01' 45" W, 378.01' to a point on said right-of-way; thence N 87° 48' 18" W, 654.70' to a point, said point being the point of curvature on said right-of-way line; thence along said right-of-way line 480.29' which follows a curve to the right, said curve having a central angle of 26° 51' 17", a radius length of 1024.71', a chord which bears N 74° 22' 40" W, 475.90' to a point, said point being the point of compound curvature of said right-of-way; thence along the right-of-way line 115.59' which follows a curve to the right, said curve having a central angle of 29° 49' 42", a radius length of 222.03', a chord which bears N 46° 02' 11" W, 114.29' to a point on said right-of-way; thence N 31° 07' 20" W, 227.53' to a point, said point being the point of curvature on the right-of-way line; thence along said right-of-way line 120.79' which follows a curve to the left, said curve having a central angle of 19° 23' 09", a radius length of 356.99', a chord which bears N 40° 48' 55" W, 120.21' to a point, said point being the point of compound curvature on said right-of-way line; thence along said right-of-way line 579.58' which follows a curve to the left, said curve having a central angle of 39° 44' 15", a radius length of 835.67' and a chord which bears N 70° 22' 37" W, 568.03' to a point on said right-of-way; thence S 89° 45' 16" W, 67.81' to a point, said point being the point of curvature on said right-of-way line; thence along said right-of-way line 58.38' which follows a curve to the right, said curve having a central angle of 26° 33' 09", a radius length of 125.96' and a chord which bears N 76° 58° 10" W, 57.85' to an iron pipe, said iron pipe being the property corner of Carl T. Stutts located in the northerly right-of-way line of Old Morganton Road; thence leaving Old Morganton Road and following Stutts' line the following courses:

N 38° 35' 50" E, 301.47'

S 74° 05' 11" E, 128.47'

S 69° 59' 48" E, 151.61'

S 39° 05' 14" E, 110.42' to an iron pipe located on the bank of a branch; thence continuing along Stutts' line N 18° 32' 37" E, 701.00' to a concrete monument, Stutts' corner; thence N 63° 47' 16" W, 1689.64' to a concrete monument, a corner common with Carl T. Stutts, Tom Frey and Frank Lucas; thence with Lucas' line N 27° 32' 15" E, 590.98' to a concrete monument; thence continuing along Lucas' line N 62° 25' 02" W, 1976.40' to a concrete monument; thence with Lucas' line S 27° 42' 35" W, 1095.48' to a concrete monument; thence S 49° 46' 38" W, 387.93' to a concrete monument on the south side of Old Morganton Road, a corner common to Floyd Medlin, Frank Lucas and Pinewild Farm; thence with Medlin's line N 02° 29' 34" E, 3035.23' to a concrete monument; thence N 89° 47' 53" W, 1180.76' to a concrete monument; thence N 01° 35' 43" E, 731.28' to a concrete monument; thence N 00° 49' 07" E, 202.33' to a concrete monument; thence S 69° 20' 19" W, 431.68' to a concrete monument; thence N 09° 25' 54" E, 938.16' to a concrete monument; thence N 02° 01' 30" E, 561.23' to a concrete monument, said monument being the northeast corner of the J. B. Voncannon lands; thence N 88° 21' 39" E, 1489.13' to a concrete monument; thence N 01° 21' 13" E, 255.51' to a concrete monument; thence N 14° 59' 15" E, 2244.31' to a concrete monument, said monument being the south corner of the Carolina Power & Light Company substation lot; thence along said substation lot line N 54° 19' 15" E, 363.17' to a point, said point being located in the centerline of the Carolina Power & Light Company transmission line right-of-way; thence

continuing along the substation lot line N 54° 19' 15" E, 338.77' to a concrete monument, said monument being located on the southerly right-of-way line of the Norfolk & Southern Railroad, said monument being further located as being 80' from the centerline of the railroad; thence with the southerly right-of-way line of the Norfolk & Southern Railroad S 40° 03' 03" E, 794.27' to a point, said point being the point of curvature on said right-of-way line; thence with said right-of-way line 1,093.44' which follows a curve to the left, said curve which has a central angle of 13° 26' 00", a radius length of 4663.72', a chord which bears S 46° 46' 03" E, 1090.93' to a point on said right-of-way line; thence continuing along said right-of-way line S 53° 29' 03" E, 136.85' to a concrete monument on said right-of-way line; thence crossing the railroad right-of-way S 89° 40' 49" E, 253.76' to a concrete monument located on the northerly right-of-way line of the Norfolk & Southern Railroad; thence S 89° 40' 49" E, 283.24' to a concrete monument, said monument located on the southerly right-of-way line of N.C. Highway #211, said monument being further located as being 50' south of the centerline of said highway; thence along the southerly right-of-way line of said highway S 62° 36' 45" E, 2084.56' to a point on said right-of-way; thence along said highway right-of-way 1586.74' which follows a curve to the left, said curve having a central angle of 31° 11' 26", a radius length of 2914.79', a chord which bears S 78° 12' 28" E, 1567.22' to a point on said right-of-way line; thence N 86° 11' 50" E, 575.51' to a point, said point being the point of curvature on said right-of-way; thence along said highway right-of-way line 533.24' which follows a curve to the right, said curve having a central angle of 10° 51' 15", a radius length of 2814.79', a chord which bears S 88° 22' 33" E, 532.44' to a concrete monument, said monument being the northwest corner of the Jenny Ray McKenzie lands; thence leaving the highway right-of-way and following the line of the McKenzie lands S 02° 14' 51" W, 594.39' to a concrete monument; thence continuing with the McKenzie line S 87° 45' 09" E, 1803.49' to a concrete monument located on the southerly right-of-way line of N.C. Highway #211; thence with said right-of-way line S 65° 40' 49" E, 315.46' to a concrete monument, said monument being the point of curvature on said right-of-way line; thence along said highway right-of-way 438.26' which follows a curve to the left, said curve having a central angle of 04° 46' 30", a radius length of 5,258.70', a chord which bears S 68° 04' 04" E, 438.14' to a concrete monument on said right-of-way line; thence S 79° 27' 19" E, 822.60' to a concrete monument on said right-of-way line, said monument being the point of curvature on the right-of-way line; thence along said highway right-of-way 1216.98' which follows a curve to the right, said curve having a central angle of 24° 46' 19", a radius length of 2814.79' and a chord which bears S 58° 04' 10" E, 1207.53' to a concrete monument on said right-of-way line; thence S 45° 41'00" E, 44.85' to a point on said right-of-way; thence leaving said right-of-way line S 04° 16' 25" E, 77.49' to a concrete monument; thence crossing N. C. Highway #211, N 81° 24' 14" E, 457.14' to a concrete monument; thence N 85° 10' 03" E, 476.72' to a concrete monument; thence S 08° 37' 11" E, 199.19' to a concrete monument; thence N 81° 23' 07" E, 199.68' to a concrete monument; thence S 08° 47' 01" E, 137.32' to an iron pipe; thence N 70° 29' 39" E, 543.65' crossing N.C.S.R. #1210 to an iron pipe located on the eastern right-of-way of N.C.S.R. #1210; thence along said right-of-way S 04° 51' 14" W, 120.11' to an iron pipe on said right-of-way, a corner with James Gaines lands; thence along said right-of-way S 05° 13' 00" W,

752.48' to an iron pipe, said pipe being located at the intersection of the eastern right-of-way of N.C.S.R. #1210 with the north right-of-way line of N. C. Highway #211; thence along the northerly right-of-way line of N. C. Highway #211 to the point of its intersection with the easterly right-of-way line of Murdocksville Road; thence in a northerly direction with the easterly right-of-way of Murdocksville Road 5,067 feet, more or less, to the point of intersection of the easterly right-of-way line of Murdocksville Road and the line of Pinehurst, Incorporated, a common corner with Lewis; thence N 55° 23' 22" E. 200 feet, more or less, to a concrete monument; thence N 55° 19' 59" E. 626.50 feet to a concrete monument; thence N 02° 26' 37" E 973.05' to a concrete monument; thence N. 31-34-21 E. 736.36 feet to the point or place of Beginning.

The following tracts are excluded from the above described boundary:

The Monroe Town Tract which contains 56.64 acres; the Pinedale Subdivision which contains 65.524 acres; the Taylor and Black tract which contains 52.213 acres and the Morrell tract which contains 4.585 acres, each of which tracts is shown on the map of the Property of Pinehurst, Incorporated prepared by Moore, Gardner & Associates, Inc. and dated June, 1974."

Sec. 2. Except as herein amended, Chapter 993, Session Laws of 1949, as heretofore amended, shall remain in full force and effect. However, in the area added to Pinehurst by this act, police protection shall be the only service provided by or through Pinehurst, Inc.; and Pinehurst, Inc. shall meet the cost of police protection in this additional area.

Sec. 3. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 4. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 17th day of June, 1975.

H. B. 895 CHAPTER 650

AN ACT TO AMEND G.S. 90-96, G.S. 90-113.14 AND G.S. 15-223 TO PROVIDE THAT THE ADMINISTRATIVE OFFICE OF THE COURTS SHALL MAINTAIN CONFIDENTIAL FILES CONTAINING THE NAMES OF PERSONS GRANTED CONDITIONAL DISCHARGES OR RECORD EXPUNCTION AND TO PROVIDE THAT THE NORTH CAROLINA DRUG AUTHORITY SHALL MAINTAIN CONFIDENTIAL FILES CONTAINING THE NAMES OF PERSONS CONVICTED OF DRUG RELATED OFFENSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-96(b), as the same appears in the 1974 Cumulative Supplement to Volume 2C of the General Statutes, is hereby amended by deleting the words "North Carolina Department of Justice" from line 5 thereof and inserting in lieu thereof the words "Administrative Office of the Courts".

Sec. 2. G.S. 90-96(c), as the same appears in the 1974 Cumulative Supplement to Volume 2C of the General Statutes, is hereby amended by deleting from lines 2 and 3 the words "North Carolina Department of Justice", substituting therefor the words "North Carolina Drug Authority", and by

deleting from lines 5 and 7 the words "North Carolina Department of Justice", substituting therefor the words "Administrative Office of the Courts".

Sec. 3. G.S. 90-113.14(b), as the same appears in the 1974 Cumulative Supplement to Volume 2C of the General Statutes, is hereby amended by deleting the words "North Carolina Department of Justice" from line 5 thereof and inserting in lieu thereof the words "Administrative Office of the Courts".

Sec. 4. G.S. 90-113.14(c), as the same appears in the 1974 Cumulative Supplement to Volume 2C of the General Statutes, is hereby amended by deleting from lines 2 and 3 the words "North Carolina Department of Justice", substituting therefor the words "North Carolina Drug Authority", and by deleting from lines 5 and 7 the words "North Carolina Department of Justice", substituting therefor the words "Administrative Office of the Courts".

Sec. 5. G.S. 15-223, as the same appears in the 1974 Cumulative Supplement to Volume 1C of the General Statutes, is hereby amended by deleting the words "North Carolina Department of Justice" wherever the same appear therein and inserting in lieu thereof the words "Administrative Office of the Courts".

Sec. 6. All expunction records presently maintained in the North Carolina Department of Justice in accordance with G.S. 90-96, G.S. 90-113.14 and G.S. 15-223 will be transferred to the Administrative Office of the Courts at the time this act becomes effective. All files containing the names of all persons convicted under Article 5 and 5A of Chapter 90 of the General Statutes will be transferred to the North Carolina Drug Authority at the time this act becomes effective.

Sec. 7. This act shall become effective October 1, 1975.

In the General Assembly read three times and ratified, this the 17th day of June, 1975.

H. B. 1155 CHAPTER 651

AN ACT TO ANNEX A CERTAIN AREA TO THE TOWN OF CAPE CARTERET.

The General Assembly of North Carolina enacts:

Section 1. There is hereby annexed to the Town of Cape Carteret the following described area:

Beginning at a point in the northern right-of-way on North Carolina Highway #24, said point is located N79°-16'E 168.63 feet from a concrete North Carolina Department of Transportation Right-of-Way Monument; said monument is located S63°-00'E 30.41 feet from a U.S. Coast and Geodetic Survey Monument named "Simkins" Reference Monument (1932). Proceeding thence from the beginning point N79°-16'E along the northern right-of-way of NC Hwy #24 1236.07 feet to a point, thence S10°-44'E to a nail and cap in the center line of NC Hwy #24 50 feet, thence S79°-16'W along the center line of NC Hwy #24 to a nail and cap 1236.07 feet, thence N10°-44'W to the point of beginning 50 feet.

Sec. 2. From and after the ratification of this act the provisions of G.S. 160A-31(e) shall be applicable to the area described in Section 1.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of June, 1975.

H. B. 1225 **CHAPTER 652**

AN ACT TO REVISE THE CHARTER OF THE TOWN OF ANGIER.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Angier is hereby rewritten to read as follows:

Name and style of corporation. The Town of Angier, North Carolina, in the County of Harnett, is hereby incorporated under the name and style of the Town of Angier, North Carolina, and by that name may sue and be sued, plead and be impleaded, contract and be contracted with, and acquire, hold and sell property, real and personal, for the use of the town.

Boundaries. The corporate limits of the Town of Angier, North Carolina, shall be as follows:

Beginning at the northeast intersection of Broad Street (east) and Lillington Street, and running thence four straight lines as follows: one North 5 1/2 deg. East 3960 ft.; one South 5 1/2 deg. West 2640 ft.; one North 84 1/2 deg. West 2820 ft.; and one South 84 1/2 deg. East 2820 ft.; and the corporate limits of said town shall be confined within a parallelogram included within four straight lines running at right angles to, and at the outward ends of, the said lines and extending each way until they intersect each other respectively.

Beginning at a stake in the eastern right of way of North Broad Street (S.R. No. 1500) where the above referred to corporate limits intersect said street and runs thence along the right of way of said street North 2 deg. 35 min. West 24 ft. to a concrete monument; thence continuing along the right of way of said street where it intersects with S.R. No. 1501 in a northeasterly curve to a concrete monument (said northeasterly curve being measured by a chord distance of 116.0 ft. measured North 24 deg. 00 min. East); thence along the right of way of S.R. No. 1501 North 47 deg. 45 min. East 866.0 ft. to a stake; thence South 42 deg. 15 min. East 257.0 ft. to a stake; thence South 1 deg. 05 min. West 636 ft. to an iron stake at the northern right of way line of Julia Street where said stake is intersected by the above referred to corporate limits; thence along the above referred to corporate limit line North 82 deg. 55 min. West about 858 ft. to the point of beginning.

Name of governing body. The governing body of the Town of Angier, North Carolina, shall be styled the board of commissioners.

Terms of office of members of board of commissioners. Members of the board of commissioners shall serve staggered four-year terms of office.

Number of members of board of commissioners. The board of commissioners shall consist of four members.

Mode of elections. The mode of elections for the offices of mayor and members of the board of commissioners shall be as set forth in Section 160A-101(6)b of the General Statutes of North Carolina. Elections for the offices of mayor and members of the board of commissioners shall be by the nonpartisan plurality method as provided in G.S. 163-279(a)(1), and the municipal election shall be held and conducted by the board of elections in accordance with the applicable provisions of Articles 23 and 24 of Chapter 163 of the General Statutes.

Term of office of mayor. The mayor shall be elected by the qualified voters of the town for a term of two years.

Form of government. The Town of Angier, North Carolina, shall operate under the mayor-council form of government in accordance with the provisions of Part 3 of Article 7 of Chapter 160A of the General Statutes of North Carolina.

Powers of mayor and board of commissioners. The mayor and board of commissioners shall have full authority to exercise all powers conferred on such offices by the General Statutes of North Carolina and this Charter.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of June, 1975.

H. B. 1233 CHAPTER 653

AN ACT TO PLACE ENFORCEMENT OF ALCOHOLIC BEVERAGE CONTROL LAWS IN TYRRELL COUNTY UNDER THE TYRRELL COUNTY ALCOHOLIC BEVERAGE CONTROL BOARD THROUGH REPEAL OF CHAPTER 456 OF THE 1953 SESSION LAWS AND CHAPTER 395 OF THE 1973 SESSION LAWS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 456 of the Session Laws of 1953 is hereby repealed in its entirety.

Sec. 2. Chapter 395 of the Session Laws of 1973 is hereby repealed in its entirety.

Sec. 3. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 17th day of June, 1975.

S. B. 29 CHAPTER 654

AN ACT TO PROVIDE FOR THE MANUFACTURE AND DISTRIBUTION OF MALT BEVERAGES AND THE FURNISHING OF PRODUCTS TO GUESTS AND EMPLOYEES OF MANUFACTURERS AND DISTRIBUTORS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 18A-38(b) is amended to read as follows:

"(b) Permits issued to brewers, bottlers, importers and wholesalers shall be as follows:

(1) Brewery permits shall authorize the permittee to manufacture malt beverages, and sell them in barrels, bottles, or other closed containers, only to persons permitted under the provisions of this Article and Chapter 105 to sell at wholesale. The sale of malt beverages to non-resident wholesalers is authorized when the purchase is not for resale in this State. The sale of malt, hops and other ingredients used in the manufacture of malt beverages is hereby permitted and allowed.

A resident manufacturer of malt beverages may furnish or sell packages not conforming to the manufacturer's marketing standards or marketable malt beverage products to its employees for the sole use of said employees and members of their families, provided that appropriate North Carolina taxes have been paid or will be paid on these beverages. A resident manufacturer also may give its products to its employees and to its bona fide guests for consumption on

its premises. Any sale or gift made by said manufacturer under this Section shall not be construed as a retail or wholesale sale under any other provision of this Chapter or Article 2C of Chapter 105.

A resident manufacturer of malt beverages holding a permit under this section may receive malt beverages that are manufactured by him at some point outside this State, but within the United States, for transshipment to dealers in other States.

(2) Wholesale malt beverage permits authorize the permittee to acquire and receive deliveries and shipments of malt beverages and to sell and deliver or ship the same, in accordance with regulations of the board, in barrels, bottles or other closed containers to persons licensed under the provisions of this Chapter to sell the same at wholesale or retail for purposes of resale. A malt beverage wholesaler may furnish or sell malt beverages to his employees for the sole use of said employees and members of their families, and, where the legal sale of such beverages is permitted, may furnish malt beverages to guests and non-permit holders for promotional purposes, subject to regulations of the State ABC Board.

(3) Bottlers' permits shall authorize the permittee to acquire and receive deliveries and shipments of malt beverages or wine (fortified and unfortified), in bottles or other closed containers and to bottle, sell and deliver or ship the same in accordance with regulations of the board to persons permitted under the provisions of this Chapter to sell the same at wholesale for the purpose of resale.

A holder of a bottler's permit may furnish or sell packages not conforming to the manufacturer's marketing standards to its employees for the sole use of said employees and members of their families, provided such bottlers furnish only such substandard packages on which the appropriate taxes have been paid or will be paid. Any sale made to any employee of said bottler under this section shall not be construed as a retail or wholesale sale under any other provisions of this Chapter or Article 2C of Chapter 105.

(4) Malt beverage importers permits authorize the permittee to import malt beverages from outside the United States in barrels, bottles, or other closed containers to warehouse and sell the same at wholesale for purposes of resale."

Sec. 2. G.S. 18A-38(c) shall be relabeled subsection (d) and all subsequent subsections shall be relabeled accordingly. The following paragraph shall be subsection (c) and shall follow subsection (b) as herein set out in Section 1 of this bill:

"(c) The sale, distribution, soliciting orders for, or delivery of malt beverages or wine (fortified or unfortified) in this State without a permit shall be unlawful. The fact that any brewery or winery or any manufacturer or bottler of malt beverages or wine (fortified or unfortified) has applied for or obtained a permit under the provisions of this Article shall not be construed as domesticating said brewery, manufacturer, or bottler, and shall not be evidence for any other purpose that such brewery, manufacturer, or bottler is doing business in North Carolina."

Sec. 3. G.S. 105-113.84 is amended by deleting from the heading "sale of 'short-filled' packages by manufacturers to employees" and by deleting the last paragraph of that statute.

Sec. 4. Amend G.S. 18A-3(a) by adding after "Chapter" at the end of such section the following "or in Chapter 105, Article 2C." in order for this section, as amended, to read as follows: "(a) No person shall manufacture, sell, barter, transport, import, export, deliver, furnish, purchase, or possess any

intoxicating liquor except as authorized in this Chapter or in Chapter 105, Article 2C."

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of June, 1975.

S. B. 249 **CHAPTER 655**

AN ACT TO AMEND CHAPTER 143, BY EXEMPTING PERMITS FOR SURFACE DISCHARGES FROM SINGLE FAMILY DWELLINGS FROM THE PUBLIC NOTICE REQUIREMENTS; BY EXTENDING THE TIME PERIOD IN WHICH THE EMC MUST ACT ON PERMITS FOR DISCHARGES TO SURFACE WATERS; BY AUTHORIZING THE EMC TO CHARGE A REASONABLE FEE FOR PROCESSING PERMIT APPLICATIONS (TO OFFSET ANTICIPATED REDUCTION IN FEDERAL FUNDS); BY GRANTING DISCRETION TO THE EMC ON THE FREQUENCY OF MONITORING REPORTS; AND BY PROVIDING GUIDELINES FOR CLASSIFICATION OF GROUNDWATERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-215.1(c) as the same appears in the 1974 Supplement of Volume 3C to the General Statutes is hereby amended by renumbering the present subdivision "(2)" to read "(2)(i)" and adding a new subparagraph "(2)(ii)" to read as follows:

"(ii) Permits for discharges to the surface waters of domestic wastes for single family dwellings of 1,000 gallons per day or less shall be issued without the above required notice. The Commission shall by regulation delegate the issuance of such permits to local health departments."

Sec. 2. G.S. 143-215.1(c)(4) as the same appears in the 1974 Supplement to Volume 3C of the General Statutes is hereby amended by deleting the word "Forty-five" in the first line and inserting the words "not later than 60" in front of the word "days".

Sec. 3. G.S. 143-215.3(a)(1) as the same appears in the 1974 Supplement to Volume 3C of the General Statutes is hereby amended by rewriting it to read:

"(1) To adopt from time to time and to modify and revoke official regulations interpreting and applying the provisions of Articles 21, 21A and 21B and rules of procedure establishing and amplifying the procedures to be followed in the administration of these Articles, including rules and regulations providing for the charge of a reasonable fee for processing or publicizing applications for permits issued under these Articles and for reviewing, processing and publicizing applications for construction grant awards under the Federal Water Pollution Control Act Amendments of 1972; provided, however, that there shall be no fee charged to any farmer who submits an application which pertains to his farming operations. Any fees related to construction grants charged by the Commission shall be consistent with federal regulations. Fees for processing permits under these Articles shall not exceed one hundred dollars ($100.00) for any single permit application. No regulations and no rules of procedure shall be effective nor enforceable until published and filed as prescribed by G.S. 143-215.4. Rules or regulations relating to permit or grant application fees shall be subject to a

public hearing, prior to adoption, held under procedures established by the Environmental Management Commission."

Sec. 4. G.S. 143-215.65 as the same appears in the 1974 Supplement to Volume 3C of the General Statutes is hereby amended by deleting in line 3 the word "monthly" and inserting in place thereof the words: "at such frequencies as the Commission may specify and at least quarterly".

Sec. 5. G.S. 143-214.1(d) as the same appears in the 1974 Supplement to Volume 3C of the General Statutes is hereby amended by adding a new subdivision (4) to read as follows:

"(4) With regard to the groundwaters, the factors to be considered shall include the natural quality of the water below land surface and the condition of occurrences, recharge, movement and discharge; the vulnerability to pollution from waste waters and other substances; and the potential for improvement of the quality and quantity of the water."

Sec. 6. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of June, 1975.

S. B. 357 CHAPTER 656

AN ACT TO REWRITE CHAPTER 52A OF THE GENERAL STATUTES ENTITLED "UNIFORM RECIPROCAL ENFORCEMENT OF SUPPORT ACT".

The General Assembly of North Carolina enacts:

Section 1. Chapter 52A of the General Statutes as it appears in the 1966 Replacement Volume 2A of the General Statutes is hereby rewritten to read as follows:

"Chapter 52A.

"Uniform Reciprocal Enforcement of Support Act.

"§ 52A-1. *Short title.*—This Chapter may be cited as the 'Uniform Reciprocal Enforcement of Support Act'.

"§ 52A-2. *Purposes.*—The purposes of this Chapter are to improve and extend by reciprocal legislation the enforcement of duties of support and to make uniform the law with respect thereto.

"§ 52A-3. *Definitions.*—As used in this Chapter unless the context requires otherwise:

(1) 'Court' means any court of record in this State having jurisdiction to determine liability of persons for the support of dependents in any criminal proceeding, and when the context requires, means the court of any other state as defined in substantially similar reciprocal law.

(2) 'Duty of support' means a duty of support whether imposed or imposable by law or by order, decree, or judgment of any court whether interlocutory or final or whether incidental to an action for divorce, separation, separate maintenance, or otherwise and includes the duty to pay arrearages of support past due and unpaid.

(3) 'Governor' includes any person performing the functions of Governor or the executive authority of any state covered by this act.

(4) 'Law' includes both common and statute law.

(5) 'Initiating state' means a state in which a proceeding pursuant to this or a substantially similar reciprocal law is commenced. 'Initiating court' means the court in which a proceeding is commenced.

(6) 'Obligee' means a person including a state or political subdivision to whom a duty of support is owed or a person including a state or political subdivision that has commenced a proceeding for enforcement of an alleged duty of support or for registration of a support order. It is immaterial if the person to whom a duty of support is owed is a recipient of public assistance.

(7) 'Obligor' means any person owing a duty of support or against whom a proceeding for the enforcement of a duty of support or registration of a support order is commenced.

(8) 'Prosecuting attorney' means the district attorney in the appropriate place who has the duty to enforce criminal laws relating to the failure to provide for the support of any person.

(9) 'Register' means to record and file in the Registry of Foreign Support Orders.

(10) 'Registering court' means any court of this State in which a support order of a rendering state is registered.

(11) 'Rendering state' means a state in which the court has issued a support order for which registration is sought or granted in the court of another state.

(12) 'Responding state' means a state in which any responsive proceeding pursuant to the proceeding in the initiating state is commenced. 'Responding court' means the court in which the responsive proceeding is commenced.

(13) 'State' includes a state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the provinces of Canada in which reciprocity can be effected by administrative action, and any foreign jurisdiction in which this or a substantially similar reciprocal law is in effect.

(14) 'Support order' means any judgment, decree, or order of support in favor of an obligee whether temporary or final, or subject to modification, revocation, or remission, regardless of the kind of action or proceeding in which it is entered.

"§ 52A-4. *Remedies additional to those now existing.*—The remedies herein provided are in addition to and not in substitution for any other remedies.

"§ 52A-5. *Obligor present in State is bound.*—Duties of support arising under the law of this State when applicable under G.S. 52A-8, bind the obligor, present in this State, regardless of the presence or residence of the obligee.

"§ 52A-6. *Interstate rendition.*—The Governor of this State:

(1) may demand from the governor of any other state the surrender of any person found in such other state who is charged in this State with the crime of failing to provide for the support of any person in this State and

(2) may surrender on demand by the governor of any other state any person found in this State who is charged in such other state with the crime of failing to provide for the support of a person in such other state.

The provisions of extradition of criminals not inconsistent herewith shall apply to any such demand although the person whose surrender is demanded was not in the demanding state at the time of the commission of the crime and although he had not fled therefrom. Neither the demand, the oath nor any proceedings for extradition pursuant to this section need state or show that the person whose surrender is demanded has fled from justice, or at the time of the commission of the crime was in the demanding or the other state.

"§ 52A-7. *Conditions of interstate rendition.*—(1) Before making the demand upon the governor of another state for the surrender of a person charged criminally in this State with failing to provide for the support of a person, the Governor of this State may request any prosecuting attorney of this State to satisfy him that at least 60 days prior thereto the obligee initiated proceedings for support under this act or that any proceeding would be of no avail.

(2) If, under a substantially similar act, the governor of another state makes a demand upon the Governor of this State for the surrender of a person charged criminally in that state with failure to provide for the support of a person, the Governor may request any prosecuting attorney to investigate the demand and to report to him whether proceedings for support have been initiated or would be effective. If it appears to the Governor that a proceeding would be effective but has not been initiated he may delay honoring the demand for a reasonable time to permit the initiating of a proceeding.

(3) If proceedings have been initiated and the person demanded has prevailed therein, the Governor may decline to honor the demand. If the obligee prevailed and the person demanded is subject to a support order, the Governor may decline to honor the demand if the person demanded is complying with the support order.

"§ 52A-8. *What duties are applicable.*—Duties of support applicable under this Chapter are those imposed or imposable under the laws of any state where the obligor was present during the period or any part of the period for which support is sought. The obligor is presumed to have been present in the responding state during the period for which support is sought until otherwise shown.

"§ 52A-8.1. *Remedies of a county furnishing support.*—Whenever a county of this State furnishes support to an obligee, it has the same right to invoke the provisions hereof as the obligee to whom the support was furnished for the purpose of securing reimbursement for such support and of obtaining continuing support and the term 'obligee' as used in this section shall apply to children owing the duty of support to their parents.

"§ 52A-8.2. *Paternity.*—If the obligor asserts as a defense that he is not the father of the child for whom support is sought and it appears to the court that the defense is not frivolous, and if both of the parties are present at the hearing or the proof required in the case indicates that the presence of either or both of the parties is not necessary, the court may adjudicate the paternity issue. Otherwise the court may adjourn the hearing until the paternity issue has been adjudicated. Nothing in this section shall be construed to deprive, amend or alter the right of the obligor defendant upon motion, to have ordered a blood grouping test as provided by G.S. 8-50.1.

"§ 52A-9. *How duties of support are enforced.*—All duties of support including the duty to pay arrearages are enforceable by action irrespective of relationship between the obligor and obligee. Jurisdiction of all proceedings hereunder shall be vested in any court of record in this State having jurisdiction to determine liability of persons for the support of dependents in any criminal proceeding.

"§ 52A-9.1. *Jurisdiction by arrest.*—If the court of this State believes that the obligor may flee it may:

(1) as an initiating court, request in its certificate that the responding court obtain the body of the obligor by appropriate process; or

(2) as a responding court, obtain the body of the obligor by appropriate process. Thereupon it may release him upon his own recognizance or upon his giving a bond in amount set by the court to assure his appearance at the hearing.

"§ 52A-10. *Contents of complaint for support.*—Actions hereunder shall be commenced by the issuance of summons in the form required for actions for alimony without divorce by the court having jurisdiction. The complaint shall be verified and shall state the name and, so far as known to the plaintiff, the address and circumstances of the defendant and his dependents for whom support is sought and all other pertinent information. The plaintiff may include in or attach to the complaint any information which may help in locating or identifying the defendant including, but without limitation by enumeration, a photograph of the defendant, a description of any distinguishing marks of his person, other names and aliases by which he has been or is known, the name of his employer, his fingerprints, and his social security number.

"§ 52A-10.1. *Official to represent plaintiff; responding.*—It shall be the duty of the official who prosecutes criminal actions for the State in the court acquiring jurisdiction to appear on behalf of the obligee in proceedings under this Chapter. In the event of an appeal from a support order entered under this act, the Attorney General shall represent the obligee.

"§ 52A-10.2. *Complaint by minor.*—A complaint on behalf of a minor obligee may be filed by a person having legal or physical custody of the minor without appointment as guardian ad litem. In addition, notwithstanding any other provisions of the law, when a court of this State, acting as a responding state, receives from the court of an initiating state a complaint on behalf of a minor obligee brought by a person having legal custody of the minor, the court may proceed to a hearing of the cause without the appointment of a guardian ad litem.

"§ 52A-10.3. *Official to represent plaintiff; initiating.*—If this State is acting as an initiating state the prosecuting attorney upon the request of the court (in the case of a person or member of a family receiving public assistance, at the request to the court by the county director of social services) shall represent the plaintiff in any proceeding under this act. The county director of social services in making such a request will provide written verification of the indigency of the person and the fact that the person or the family is receiving public assistance. In counties where the services of a special county attorney are available for social services matters as set out in G.S. 108-20 through G.S. 108-22, such special county attorney, instead of the prosecuting attorney, shall represent the obligee, the county or the plaintiff in any proceeding under this Chapter when the county has a right to invoke the provisions of this Chapter under Section 52A-8.1.

"§ 52A-11. *Duty of initiating court.*—If the initiating court finds that the defendant is not to be found in this State, that the complaint sets forth facts from which it may be determined that the defendant owes a duty of support, and that a court of the responding state may obtain jurisdiction of the defendant or his property, it shall so certify and shall cause three copies of (1) the complaint, (2) its certificate, (3) any other document filed with the court, and (4) one copy of this Chapter to be transmitted to the court or other designated agency in the responding state.

If the name and address of such court is unknown and the responding state has an information agency, the court of this State shall cause such copies to be

transmitted to the State information agency or other proper official of the responding state, with a request that it forward them to the proper court, and that the court of the responding state acknowledge their receipt to the court of this State. Unless the chief district court judge shall otherwise direct, the authority and duties of this section shall be the responsibility of the clerk of superior court.

"§ 52A-11.1. *Fees and costs.*—A responding court of this State may in its discretion direct that any part of all fees and costs incurred in this State, including without limitation by enumeration, fees for filing, service of process, and seizure of property, shall be paid by the county, but when an order of support is entered against a defendant, he shall be taxed with the costs. These costs or fees do not have priority over amounts due to the obligee. In addition, any and all appellate costs taxed to the plaintiff or the State shall be waived when the plaintiff has been certified as an indigent by the initiating court.

The clerk of the initiating court may upon written verification by the county director of social services of the indigency of the plaintiff, waive all fees and costs incurred in filing a complaint hereunder or may waive such fees and costs solely upon a finding of indigency by the court.

"§ 52A-12. *Duty of the court of this State as responding state.*—When the court of this State, acting as a responding state, receives from the court of an initiating state the aforesaid copies, it shall (1) docket the cause, (2) notify the prosecuting attorney as described in G.S. 52A-10.1, (3) set a time and a place for a hearing, and (4) take such action as is necessary in accordance with the laws of this State to obtain jurisdiction. The procedure for serving notice and summons on the defendant under this Chapter shall be the same as in actions for alimony as provided by G.S. 50-16.8.

"§ 52A-12.1. *Further duties of court and officials in the responding state.*—(1) The prosecuting attorney on his own initiative shall use all means at his disposal to locate the obligor or his property and if because of inaccuracies in the complaint or otherwise, the court cannot obtain jurisdiction the prosecuting attorney may request the court to continue the case pending receipt of more accurate information or an amended complaint from the initiating court.

(2) If the obligor or his property is not found in the county and the prosecuting attorney discovers that the obligor or his property may be found in another county of this State or in another state, he shall so inform the court. Thereupon the clerk of the court shall forward the documents received from the court in the initiating state to a court in the other county or to a court in the other state or to the information agency or other proper official of the other state with a request that the documents be forwarded to the proper court. All powers and duties provided by this act apply to the recipient of the documents so forwarded. If the clerk of a court of this State forwards documents to another court, he shall forthwith notify the initiating court.

(3) If the prosecuting attorney has no information as to the location of the obligor or his property, he shall so inform the initiating court.

"§ 52A-12.2. *Hearing and continuance.*—If the obligee is not present at the hearing and the obligor denies owing the duty of support alleged in the complaint or offers evidence constituting a defense, the court, upon request of either party, shall continue the hearing to permit evidence relative to the duty to be adduced by either party by deposition or by appearing in person before the

court. The court may designate the judge of the initiating court as a person before whom a deposition may be taken.

"§ 52A-13. *Order of support.*—If the court of the responding state finds a duty of support, it may order the defendant to furnish support or reimbursement therefor and subject the property of the defendant to such order.

"§ 52A-14. *Responding court to transmit copies to initiating court.*—The responding court shall cause a copy of all support orders to be sent to the initiating court.

"§ 52A-15. *Additional powers of court.*—In addition to the foregoing powers, the responding court has the power to subject the defendant to such terms and conditions as the court may deem proper to assure compliance with its orders and in particular:

(1) To require the defendant to furnish recognizance in the form of a cash deposit or bond of such character and in such amount as the court may deem proper to assure payment of any amount required to be paid by the defendant.

(2) To require the defendant to make payments at specified intervals to the clerk of the court and to report personally to such clerk at such times as may be deemed necessary.

(3) To punish the defendant who shall violate any order of the court to the same extent as is provided by law for contempt of the court in any other suit or proceeding cognizable by the court.

"§ 52A-16. *Additional duties of the court of this State when acting as a responding court.*—The court of this State when acting as a responding state shall have the following duties which may be carried out through the clerk of the court:

(1) Upon receipt of a payment made by the defendant pursuant to any order of the court or otherwise, to transmit the same forthwith to the initiating court and

(2) Upon request to furnish to the initiating court a certified statement of all payments made by the defendant.

"§ 52A-17. *Additional duty of the initiating court of this State.*—The initiating court shall have the duty which may be carried out through the clerk of court to receive and disburse forthwith all payments made by the defendant or transmitted by the responding court.

"§ 52A-18. *Evidence of husband and wife.*—Laws attaching a privilege against the disclosure of communications between husband and wife are inapplicable to proceedings under this Chapter. Husband and wife are competent witnesses to testify to any relevant matter, including marriage and parentage.

"§ 52A-19. *Rules of evidence.*—In any hearing under this law wherein the defendant has been served with notice and summons as herein provided, the verified complaint of the plaintiff shall be admissible as prima facie evidence of the facts therein stated in any court of this State having jurisdiction to conduct hearings pursuant to this Chapter. In those cases where the defendant fails to appear after service of notice and summons, the court may enter a reasonable order for support. Upon proper motion of the defendant, the reasonableness of the order may be reconsidered by the court and upon a showing by the defendant that the order is not within his financial ability to pay, is beyond his earning capacity, or for other good cause shown, such order shall be subject to modification from time to time. The order fixed by the court shall also be subject to modification from time to time upon motion of the plaintiff.

"§ 52A-20. *Proceedings not to be stayed.*—A responding court may or may not stay the proceeding or refuse a hearing under this act because of any pending or prior action or proceeding for divorce, separation, annulment, dissolution, habeas corpus, adoption, or custody in this or any other state. The court may hold a hearing and may issue a support order pendente lite. In aid thereof it may require the obligor to give a bond for the prompt prosecution of the pending proceeding. If the other action or proceeding is concluded before the hearing in the instant proceeding and the judgment therein provides for the support demanded in the complaint being heard, the court must conform its support order to the amount allowed in the other action or proceeding. Thereafter, the court shall not stay enforcement of its support order because of the retention of jurisdiction for enforcement purposes by the court in the other action or proceeding.

"§ 52A-21. *Application of payments.*—A support order made by a court of this State pursuant to this act does not nullify and is not nullified by a support order made by a court of this State pursuant to any other law or by a support order made by a court of any other state pursuant to a substantially similar act or any other law regardless of priority of issuance, unless otherwise specifically provided by the court. Amounts paid for a particular period pursuant to any support order made by the court of another state shall be credited against the amounts accruing or accrued for the same period under any support order made by the court of this State.

"§ 52A-22. *Effect of participation in proceeding.*—Participation in any proceeding under this act does not confer jurisdiction upon any court over any of the parties thereto in any other proceeding.

"§ 52A-23. *Intrastate application.*—This act applies if both the obligee and the obligor are in this State but in different counties. If the court of the county in which the complaint is filed finds that the complaint sets forth facts from which it may be determined that the obligor owes a duty of support and finds that a court of another county in this State may obtain jurisdiction over the obligor or his property, the clerk of the court shall send the complaint and a certification of the findings and any other document filed with the court to the court of the county in which the obligor or his property is found. The clerk of the court of the county receiving these documents shall notify the prosecuting attorney of their receipt. The prosecuting attorney and the court in the county to which the copies are forwarded then shall have duties corresponding to those imposed upon them when acting for this State as a responding state. In all intrastate proceedings provisions of this act stated to be applicable to an initiating state and a responding state are applicable respectively to an initiating county and a responding county.

"§ 52A-24. *State information agency.*—The State Division of Social Services is designated as the State information agency under this act. It shall:

(1) Compile a list of the courts and their addresses in this State having jurisdiction under this act and transmit it to the state information agency of every other state which has adopted this or a substantially similar act. Upon the adjournment of each session of the legislature the agency shall distribute copies of any amendments to the act and a statement of their effective date to all other state information agencies;

(2) Maintain a register of lists of courts received from other states and transmit copies thereof promptly to every court in this State having jurisdiction under this act; and

(3) Forward to the court in this State which has jurisdiction over the obligor or his property complaints, petitions, certificates and copies of the act it receives from courts or information agencies of other states.

If the State information agency does not know the location of the obligor or his property in the State and no State location service is available it shall use all means at its disposal to obtain this information, including the examination of official records in the state and other sources such as telephone directories, vital statistics records, police records, requests for the name and address from employers who are able or willing to cooperate, records of motor vehicle license offices, requests made to the tax offices, both State and federal, where such offices are able to cooperate and requests made to the Social Security Administration as permitted by the Social Security Act as amended.

To assist in locating parents who have deserted their children and other persons liable for support of dependents, the Division of Social Services may request and shall receive information from the records of all departments, boards, bureaus or other agencies of this State and the same are authorized and directed to provide such information as is necessary for this purpose. Only information directly bearing on the identity and whereabouts of a person owing or asserted to be owing an obligation of support shall be requested and used or transmitted by the Division of Social Services pursuant to the authority conferred by this act. The Division of Social Services shall make such information available to public officials and agencies of this State, other states and the political subdivisions of this State and other states seeking to locate parents who have deserted their children and other persons liable for support of dependents for the purpose of enforcing their liability for support.

"§ 52A-25. *Additional remedies.*—If the duty of support is based on a foreign support order, the obligee has the additional remedies provided in the following sections.

"§ 52A-26. *Registration.*—The obligee may register the foreign support order in a court of this State in the manner, with the effect, and for the purposes herein provided.

"§ 52A-27. *Registry of foreign support orders.*—The clerk of superior court shall maintain a registry of foreign support orders in which he shall file foreign support orders.

"§ 52A-28. *The official.*—If this State is acting either as a rendering or a registering state the representation of the obligee in proceedings under this Part shall be the same as is set out in G.S. 52A-10.1 and G.S. 52A-10.3.

"§ 52A-29. *Registration procedure; notice.*—An obligee seeking to register a foreign support order in a court of this State shall transmit to the clerk of the court (1) three certified copies of the order with all modifications thereof, (2) one copy of the reciprocal enforcement of support act of the state in which the order was made, and (3) a statement verified and signed by the obligee, showing the post-office address of the obligee, the last known place of residence and post-office address of the obligor, the amount of support remaining unpaid, a description and the location of any property of the obligor available upon execution, and a list of the states in which the order is registered. Upon receipt of these documents, the clerk of the court, without payment of a filing fee or

other cost to the obligee, shall file them in the Registry of Foreign Support Orders. The filing constitutes registration under this act.

Promptly upon registration, the clerk of the court shall send by certified or registered mail to the obligor at the address given a notice of the registration with a copy of the registered support order, and the post-office address of the obligee. He shall also docket the case and notify the prosecuting attorney of his action.

"§ 52A-30. *Effect of registration; enforcement procedure.*—(1) Upon registration, the registered foreign support order shall be treated in the same manner as a support order issued by a court of this State. It has the same effect and is subject to the same procedures, defenses, and proceedings for reopening, vacating or staying as a support order of this State and may be enforced and satisfied in like manner.

(2) The obligor has 20 days after the mailing of notice of the registration in which to petition the court to vacate the registration or for other relief. If he does not so petition, the registered support order is confirmed.

(3) At the hearing to enforce the registered support order, the obligor may present only matters that would be available to him as defenses in an action to enforce a foreign money judgment. If he shows to the court that an appeal from the order is pending or will be taken or that a stay of execution has been granted, the court shall stay enforcement of the order until the appeal is concluded, the time for appeal has expired, or the order is vacated, upon satisfactory proof that the obligor has furnished security for payment of the support ordered as required by the rendering state. If he shows to the court any ground upon which enforcement of a support order of this State may be stayed, the court shall stay enforcement of the order for an appropriate period if the obligor furnishes the same security for payment of the support ordered that is required for a support order of this State.

"§ 52A-31. *Severability.*—If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

"§ 52A-32. *Interpretation of Chapter.*—This Chapter shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states having a substantially similar act."

Sec. 2. This act shall not apply to pending litigation including proceedings which have been initiated in a state other than North Carolina.

Sec. 3. This act shall become effective on October 1, 1975.

In the General Assembly read three times and ratified, this the 18th day of June, 1975.

S. B. 466 **CHAPTER 657**

AN ACT PROVIDING FOR THE ELECTION OF MEMBERS OF THE DURHAM COUNTY BOARD OF EDUCATION BY THE QUALIFIED VOTERS OF THE COUNTY COMMENCING IN 1976 AND QUADRENNIALLY THEREAFTER.

The General Assembly of North Carolina enacts:

Section 1. The Durham County Board of Education shall consist of five members elected by the voters of the county school district at large for terms of four years.

Sec. 2. Commencing with and at the time of the primary election in 1976, the five members of the Durham County Board of Education shall be elected on a nonpartisan basis by the voters residing in the school district administered by it, and shall be so elected quadrennially thereafter. In any such election the names of the candidates shall be printed on the ballots without reference to any party affiliation and any qualified voter residing in the county school district shall be entitled to vote such ballots. Except as otherwise provided herein, the election shall be conducted according to the provisions of Chapter 163 of the General Statutes then governing primary and second primary elections.

Sec. 3. No person shall be eligible for election to or continued service on the Durham County Board of Education unless such person shall be a bona fide resident of and in the geographical area within the boundaries of the Durham County School Administrative Unit at the time of filing his or her notice of candidacy, and continuously during the term for which elected.

Sec. 4. Those persons who shall be elected members of the Durham County Board of Education must qualify by taking the oath of office on or before the first Monday in December next succeeding their election. A failure to qualify within that time shall constitute a vacancy which shall be filled as hereinafter set out. If any candidate elected pursuant to the provisions of this act shall die, resign or for any reason become ineligible or disqualified between the date of his election and the date of his qualification, such vacancy caused thereby shall be filled by appointment by the other persons elected in that election. All vacancies in the membership of the board after election and qualification of its members, by death, resignation or other causes, shall be filled by appointment by the remaining members of the board, of a person to serve for the remainder of the unexpired term.

Sec. 5. Members of the Durham County Board of Education shall be paid per diem compensation of twenty-five dollars ($25.00) for each board meeting attended, not to exceed three meetings per month, and fifteen cents (15¢) per mile to and from places of meeting.

Sec. 6. Chapter 296 of the Session Laws of 1963 and all other laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 7. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of June, 1975.

S. B. 534 **CHAPTER 658**

AN ACT TO AMEND CHAPTER 17B OF THE GENERAL STATUTES TO AUTHORIZE THE ATTORNEY GENERAL TO APPOINT ADDITIONAL MEMBERS TO THE CRIMINAL JUSTICE EDUCATION AND TRAINING COUNCIL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 17B-4(a) as the same appears in the 1974 Cumulative Supplement to Volume 1C of the General Statutes is amended by adding a new subdivision to read:

"(10) One member of the North Carolina Senate to be appointed by the Lieutenant Governor; one member of the North Carolina House of Representatives to be appointed by the Speaker of the House; and one member from the public at large to be selected by the Attorney General. The initial appointments shall be made prior to July 1, 1975 and the term of successors shall begin on July 1 of each year thereafter."

Sec. 2. G.S. 17B-4(a) as the same appears in the 1974 Cumulative Supplement to Volume 1C of the General Statutes is amended by deleting the number "38" in line 2 thereof and by inserting in lieu thereof the number "41".

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of June, 1975.

S. B. 598 **CHAPTER 659**

AN ACT TO MAKE IT A CRIMINAL OFFENSE TO ADULTERATE GRAINS MEANT FOR HUMAN OR ANIMAL CONSUMPTION.

The General Assembly of North Carolina enacts:

Section 1. For purposes of this act, the following words or terms shall mean as follows:

1. Grain: corn, wheat, soybeans, milo, barley, oats, rye, and mixtures of them.

2. Adulterated grain: grain which contains any substance, such as, but not limited to, Captan, Carbon Tetrachloride, Malathion, Parathion, D.D.T., Dieldren, Thiram, Endrin, Heptachlor, Maneb, Methoxychlor, 2, 6-Dichloro, 4-nitroaniline, Pentachloronitrobenzene, Hexachlorobenzene, Demeton, Phorate, Carbophenothion, in excess of the tolerance for human or animal consumption established for such substance by the laws of the State or the regulations of the North Carolina Department of Agriculture, or both the State and the department.

3. Commissioner: North Carolina Commissioner of Agriculture.

4. Grain dealer: any person owning, controlling or operating an elevator, mill, warehouse or other similar structure or truck or tractor-trailer unit or both who buys, solicits for sale or resale, processes for sale or resale, contracts for storage or exchange or transfers grain after obtaining title to the grain of a North Carolina producer. The term "grain dealer" shall exclude producers, groups of producers, or contract feeders buying grain for consumption in their operations.

5. Person: any individual, partnership, corporation, association, syndicate or other legal entity.

Sec. 2. It shall be unlawful for any person to commit a prohibited act under G.S. 106-122 with adulterated grain as defined in this act and as the particular grain qualifies as adulterated food under G.S. 106-129.

Sec. 3. Any person violating the provisions of this act shall be subject to the provisions of G.S. 106-123, G.S. 106-124 and G.S. 106-125.

Sec. 4. It shall be the duty of the commissioner to cause to be prepared and furnished for a fee of five dollars ($5.00) each to all grain dealers, as defined in this act, in the State a sign not less than 11 x 15 inches, which sign shall contain information that it is a violation of law for any person to sell, offer for sale or deliver adulterated grain. Said sign shall also set out the penalties for violation of this act. Duplicate signs, and replacement for signs lost, stolen, worn or otherwise unusable, shall be purchased from the Department of Agriculture for a fee of five dollars ($5.00) per sign.

Sec. 5. It shall be the duty of the owner, manager, or person in charge of the elevator, mill, warehouse or other similar structure to post in a conspicuous place, in view of the public, a sign or signs furnished to the grain dealer by the commissioner pursuant to this act.

Sec. 6. It shall not be a defense to a prosecution under this act that the sign required to be posted by Section 5 hereof was not posted on the date of the alleged violation.

Sec. 7. For purposes of evidence under this act, the grain dealer or his agent, upon receipt or pending receipt of suspected adulterated grain, may, at his discretion, call any law enforcement officer to verify the sampling technique, origin of sampled grain and subsequently send or request the law enforcement officer to send the sample of grain in a sealed package to the Department of Agriculture for inspection and analysis in order to protect only the chain of evidence.

Upon finding by the Department of Agriculture that said sample is adulterated grain, the department shall notify the grain dealer of the results and return the sample to the original sender in a sealed package.

Sec. 8. The terms of this act shall not apply to grain sold, offered for sale or delivered for purposes of planting.

Sec. 9. This act shall become effective on July 1, 1975; provided, however, there shall be no prosecution under the provisions hereof for any act occurring prior to September 1, 1975.

In the General Assembly read three times and ratified, this the 18th day of June, 1975.

S. B. 660

CHAPTER 660

AN ACT TO REGULATE THE SALE OF CREDIT LIFE AND CREDIT ACCIDENT AND HEALTH INSURANCE AND TO ESTABLISH PREMIUM RATES THEREFOR.

The General Assembly of North Carolina enacts:

Section 1. A new Subchapter and Article are added to Chapter 58 of the General Statutes, to read as follows:

"SUBCHAPTER VIII.

"Credit Life Insurance and Credit Accident and Health Insurance.

"ARTICLE 32.

"THE NORTH CAROLINA ACT FOR THE REGULATION OF CREDIT LIFE INSURANCE AND CREDIT ACCIDENT AND HEALTH INSURANCE.

"§ 58-341. *Application of Article.*—All credit life insurance and all credit accident and health insurance as defined herein and written in connection with direct loans, consumer credit installment sale contracts of whatever term permitted by G.S. 25A-33 or other credit transactions, shall be subject to the provisions of this Article, except credit insurance written in connection with direct loans of more than 10 years duration. The provisions of this Article shall be controlling as to such insurance and no other provisions of this Chapter shall be applicable unless otherwise specifically provided; nor shall such insurance be subject to the provisions of this Article where the issuance of such insurance is an isolated transaction on the part of the insurer not related to an agreement or a plan for insuring debtors of the creditor.

This act may be cited as 'The North Carolina Act for the Regulation of Credit Life Insurance and Credit Accident and Health Insurance.'

"§ 58-342. *Definitions.*—As used in this Article, unless the context requires otherwise, the following words or terms shall have the meanings herein ascribed to them, respectively:

(a) 'Credit life insurance' means insurance on the life of a debtor pursuant to or in connection with a specific loan or other credit transaction as defined in G.S. 58-195.2;

(b) 'Credit accident and health insurance' means insurance on a debtor to provide indemnity for payments becoming due on a specific loan or other credit transaction as defined in G.S. 58-254.8;

(c) 'Creditor' means the lender of money or vendor or lessor of goods, services, property, rights or privileges, for which payment is arranged through a credit transaction or any successor to the right, title or interest of any such lender, vendor, or lessor, and an affiliate, associate or subsidiary of any of them or any director, officer or employee of any of them or any other person in any way associated with any of them;

(d) 'Debtor' means a borrower of money or a purchaser or lessee of goods, services, property, rights or privileges for which payment is arranged through a credit transaction;

(e) 'Indebtedness' means the total amount payable for the term of the loan by debtor to creditor in connection with a loan or other credit transaction, including principal, interest, allowable charges, and any premiums authorized hereunder.

(f) 'Credit life insurance agent' means an agent of an insurance company licensed in this State, who is authorized to solicit, negotiate or effect credit life insurance or accident and health insurance, or both, but only to the extent as is authorized and limited in this Article;

(g) 'Commissioner' means the Commissioner of Insurance;

(h) 'Joint life coverage' means credit life insurance covering two or more lives, the entire amount of insurance being payable upon the death of the first insured debtor to die.

"§ 58-343. *Forms of insurance which are authorized.*—Credit life insurance and credit accident and health insurance shall be issued only in the following forms:

(a) Individual policies of life insurance issued to debtors on the term plan;

(b) Individual policies of accident and health insurance issued to debtors on a term plan or disability benefit provisions in individual policies of credit life insurance;

(c) Group policies of life insurance issued to creditors providing insurance upon the lives of debtors on the term plan;

(d) Group policies of accident and health insurance issued to creditors on a term plan insuring debtors or disability benefit provisions in group credit life insurance policies to provide such coverage.

"§ 58-344. *Amount.*—(a) Credit Life Insurance.

(1) Credit life insurance may be written on either a level term or decreasing term plan for an initial amount not in excess of the total amount repayable under the contract of indebtedness. When decreasing term coverage is written in connection with indebtedness repayable on an installment basis, the amount of insurance shall at no time exceed the scheduled or actual amount of unpaid indebtedness, whichever is greater.

(2) Notwithstanding the provisions of the above paragraph, insurance on seasonal credit line commitments (such as may be found in agricultural credit transactions) not exceeding one year in duration may be written up to the amount of the loan commitment, whether or not the full amount of the commitment has been advanced by the creditor, on a nondecreasing or level term plan.

(3) Notwithstanding the provisions of Paragraph (a)(1) of this or any other section, insurance on education credit transaction commitments may be written for the amount of such commitment whether or not the full amount of the commitment has been advanced by the creditor.

(b) Credit Accident and Health Insurance. The total amount of indemnity payable by credit accident and health insurance in the event of disability, as defined in the policy, shall not exceed the indebtedness; and the amount of each monthly benefit shall not exceed the indebtedness divided by the number of months in the term of the loan. A daily benefit equal in amount to one-thirtieth of the scheduled monthly payment is permissible.

"§ 58-345. *Term; termination prior to scheduled maturity.*—The term of any credit life insurance or credit accident and health insurance shall, subject to acceptance by the insurer, commence on the date when the debtor becomes obligated to the creditor, except that, where a group policy provides coverage with respect to existing obligations, the insurance on a debtor with respect to such indebtedness shall commence on the effective date of the policy. The term of such insurance shall not extend more than 15 days beyond the maturity date of the indebtedness or final installment thereof. If the indebtedness is discharged due to prepayment, the insurance in force shall be terminated unless otherwise requested by the insured in writing. If the indebtedness is discharged due to renewal or refinancing prior to such maturity date, the insurance in force shall be terminated before any new insurance may be issued in connection with the renewed or refinanced indebtedness. In all cases of termination prior to scheduled maturity, a refund shall be paid or credited as provided in G.S. 58-351.

"§ 58-346. *Insurance to be evidenced by individual policy; notice of proposed insurance or certificate; required and prohibited provisions; when debtor to receive copy.*—(a) All individual credit life insurance and credit accident and

health insurance sold shall be evidenced by an individual policy. All group insurance sold where any part of the premium is paid by the debtors or by the creditors from identifiable charges collected from the insured debtors shall be evidenced by a certificate of insurance.

(b) Each individual policy or certificate of credit life insurance, and/or credit accident and health insurance shall set forth the name and home office address of the insurer, the identity of the insured debtor by name or otherwise, the premium or amount of payment, if any, by the debtor separately for credit life insurance and credit accident and health insurance if not disclosed in other documents furnished to the debtor, a description of the coverage including the amount and term thereof, and any exceptions, limitations or restrictions, and shall state that the benefits shall be paid to the creditor to reduce or extinguish the unpaid indebtedness, and wherever the amount of insurance may exceed the unpaid indebtedness, that any such excess shall be payable to a beneficiary other than the creditor named by the debtor, or to his estate.

(c) No individual policy of credit life insurance or credit accident and health insurance and no group policy of credit life insurance or credit accident and health insurance shall be delivered or issued for delivery in this State, unless each contains in substance all of the following provisions:

(1) In each policy there shall be a provision that the policy, or the policy and application therefor, if any, or if a copy of the application is endorsed upon or attached to the policy when issued, shall constitute the entire insurance contract between the parties, and that all statements made by the creditor or by the individual debtors shall, in the absence of fraud, be deemed representations and not warranties.

(2) In each such policy there shall be a provision that the validity of the policy shall not be contested, except for nonpayment of premiums, after it has been in force for two years from its date of issue; and that no statement made by any person insured under the policy relating to his insurability shall be used in contesting the validity of the insurance with respect to which such statement was made after such insurance has been in force on such insured for a period of two years during such person's lifetime, and prior to the date on which the claim thereunder arose.

(3) In each such policy there shall be a provision that when a claim for the death or disability of the insured arises thereunder, settlement shall be made upon receipt of due proof of such death or such disability.

(4) On the face of each such policy there shall be placed a title which shall briefly and accurately describe the nature and form of the policy.

(5) Each such policy, including rider and endorsement, shall be identified by a form number in the lower left-hand corner of the first page thereof, and no restriction, condition or provision in or endorsed on such policy shall be valid unless such provision or condition is printed in type as large as eight-point type.

(6) In each such policy there shall be a provision that the insured debtor shall have the right to rescind the insurance policy or certificate of insurance upon giving written notice to the insurer within 15 days from the date the insured debtor received such policy or certificate.

(d) No individual policy of credit life insurance or credit accident and health insurance, no group policy of credit life insurance or credit accident and health

insurance shall be delivered or issued for delivery in this State if it contains any provision:

(1) Limiting the time within which any action at law or in equity may be commenced to less than three years after the cause of action accrues; or

(2) To the effect that the agent soliciting the insurance is the agent of the person insured under the policy, or making the acts or representations of such agent binding upon the person so insured under the policy.

(e) If said individual policy or certificate of group insurance is not delivered to the debtor at the time the indebtedness is incurred or mailed to the debtor within 30 days thereafter, a written notification must be furnished to the debtor within the 30-day period, which notification shall set forth the following:

(1) The name and home office address of the insurer;

(2) The identity of the debtor, by name or otherwise;

(3) The premium or identifiable charge to the debtor, if any, separately in connection with credit life insurance and credit accident and health insurance;

(4) The amount and term of the coverage provided, if possible, otherwise a clear description of the means of determining the amount and time of expiry;

(5) A brief description of the coverage provided;

(6) A statement that, if the insurance is declined by the insurer or otherwise does not become effective, any premium or identifiable charge will be refunded or credited to the debtor; and

(7) A statement that, upon acceptance by the insurer, the insurance coverage provided shall become effective as specified in G.S. 58-345.

Any portion of the information required in said notification may be furnished by other documents, if copies of such documents are attached to said notification. If an insurance policy or certificate of insurance is not delivered to the insured debtor at the time the indebtedness is incurred, he shall be furnished at the time the indebtedness is incurred written notice that he shall have the right to rescind the insurance policy or certificate of insurance upon giving written notice to the insurer within 15 days from the date the insured debtor receives such policy or certificate.

"§ 58-347. *Forms to be filed with commissioner; approval or disapproval by commissioner.*—(a) All forms of policies, certificates of insurance, notices of proposed insurance, endorsements and riders intended for use in this State shall be filed with the commissioner.

(b) The commissioner shall, within 30 days after the filing of any such policies, certificates of insurance, notices of proposed insurance, endorsements and riders, disapprove any such form if it contains provisions which are contrary to, or not in accordance with, any provision of this Article or of any rule or regulation promulgated thereunder. Unless disapproved in writing within such 30 days, a form shall be deemed approved.

(c) If the commissioner notifies the insurer that the form is disapproved, it is unlawful thereafter for such insurer to issue or use such form for a period of 60 days, or until the commissioner has issued a final order after hearing, whichever is earlier. In such notice, the commissioner shall specify the reason for his disapproval and state that a hearing will be granted within 20 days after request in writing by the insurer. No such policy, certificate of insurance, notice of proposed insurance, endorsement or rider shall be issued or used until the

expiration of 30 days after it has been so filed, unless the commissioner shall give his prior written approval thereto.

(d) The commissioner may, at any time after a hearing held not less than 20 days after written notice to the insurer, withdraw his approval of any such form on any ground set forth in subsection (b) above. The written notice of such hearing shall state the reason for the proposed withdrawal.

(e) No insurer shall issue such forms or use them after the effective date of such withdrawal.

"§ 58-348. *General premium rate standard.*—(a) Benefits provided by credit life and credit accident and health insurance written under this Article shall be reasonable in relation to the premium charge. This requirement is satisfied if the premium rates to be charged are no greater than those premium rates set forth in G.S. 58-349 and G.S. 58-350 of this Article for benefits as described in those sections. The amount charged to a debtor for any credit life or credit accident and health insurance shall not exceed the premiums charged by the insurer, as computed at the time the charge to the debtor is determined.

(b) The premium or cost of credit life or disability insurance, when written by or through any lender or other creditor, its affiliate, associate or subsidiary shall not be deemed as interest or charges or consideration or an amount in excess of permitted charges in connection with the loan or credit transaction and any gain or advantage to any lender or other creditor, its affiliate, associate or subsidiary, arising out of the premium or commission or dividend from the sale or provision of such insurance shall not be deemed a violation of any other law general or special, civil or criminal of this State, or of any rule, regulation or order issued by any regulatory authority of this State.

(c) If premiums are to be determined according to the age of the insured debtor or by age brackets, an insurer may determine premium rates on a basis actuarially consistent with the rates provided in G.S. 58-348, but such rates shall be filed with and approved by the commissioner.

"§ 58-349. *Credit life insurance rate standards.*—(a) The premium rate standards set forth below are applicable to plans of credit life insurance with or without requirements for evidence of insurability:

(1) Which contain no exclusions or no exclusions other than suicide; and

(2) Which contain no age restrictions, or only age restrictions not making ineligible for the coverage

(i) debtors under 65 at the time the indebtedness is incurred; or

(ii) debtors who will not have attained age 66 on the maturity date of the indebtedness.

(b) Rates for use with forms which are more restrictive in any material respect shall reflect such variations in the form or lower rates to the extent that a significant difference in claim cost can reasonably be anticipated unless the insurer demonstrates that such lower rate is not appropriate.

(c) If premiums are payable in one sum in advance, for decreasing term life insurance on indebtedness repayable in substantially equal monthly installments, a premium not exceeding eighty cents (80¢) per one hundred dollars ($100.00) of initial insured indebtedness per year is authorized.

(d) The premium rate of joint life insurance coverage shall not exceed one and two-thirds (1-2/3) the permitted single life rate.

(e) For level term life insurance, a premium rate of one dollar and fifty cents ($1.50) per one hundred dollars ($100.00) per year is authorized.

(f) For policies for which monthly premiums are charged on a basis of the then outstanding balances, a monthly premium per one thousand dollars ($1,000) of outstanding balances is authorized, based on the following formula:

$$Op_n = \frac{20\ SP_n}{n+1}$$

where SP_n=Single Premium Rate per $100 of initial insured indebtedness repayable in n equal monthly installments.

Op_n=Monthly Outstanding Balance Premium Rate per $1,000

n=Original repayment period, in months.

(g) For credit life insurance on a basis other than the foregoing, premiums charged shall be actuarially equivalent.

"§ 58-350. *Credit accident and health insurance rate standards.*—(a) The rate standards set forth below shall be applicable for contracts which contain a provision excluding or denying claim for disability resulting from pre-existing illness, disease or physical condition, for which the debtor received medical advice, consultation, or treatment within the six-month period immediately preceding the effective date of the debtor's coverage and if said disability occurs within the six-month period immediately following such date, but contain no other provision which excludes or restricts liability in the event of disability caused in a certain specified manner, except that they may contain provisions excluding or restricting coverage in the event of pregnancy; intentionally self-inflicted injuries; sickness resulting from intoxication, addiction to alcohol or narcotics, or from the use thereof unless administered on the advice of a physician; flight in non-scheduled aircraft, war, military service; and may contain age restrictions similar to those mentioned for credit life insurance in G.S. 58-349.

(b) A policy of credit accident and health insurance may not define 'disability' any more restrictively than the inability of the insured to perform his occupation or any occupation for which he is qualified by education, training or experience.

(c) Any policy to which the rates below apply may require the debtor to be gainfully employed on the effective date of the insurance.

(d) If premiums are payable in one sum in advance for the entire duration of the indebtedness, for insurance with a pre-existing exclusion as defined above, the following premiums are authorized:

Single Premium Rates Per $100 of Initial Insured Indebtedness

No. of Months in which Indebtedness is Repayable	Nonretroactive Benefits		Retroactive Benefits		
	14-Day Wait	30-Day Wait	7-Day Wait	14-Day Wait	30-Day Wait
1-12	$1.65	$1.10	$3.00	$2.42	$1.65
13-24	2.20	1.65	4.00	3.30	2.20
25-36	2.75	2.20	5.00	4.18	2.75
37-48	3.30	2.75	6.00	5.06	3.30
49-60	3.85	3.30	7.00	5.94	3.85
61-72	4.40	3.85		6.82	4.40
73-84	4.95	4.40		7.70	4.95
85-96	5.50	4.95		8.58	5.50
97-108	6.05	5.50		9.46	6.05
109-120	6.60	6.05		10.34	6.60

(e) For policies for which monthly premiums are charged on a basis of the then outstanding balances, a monthly premium per one thousand dollars ($1,000) of outstanding balances is authorized, based on the following formula:

$$Op_n = \frac{20\ SP_n}{n+1}$$

where SP_n=Single Premium Rate per one hundred dollars ($100.00) of initial indebtedness repayable in n equal monthly installments

Op_n=Monthly Outstanding Balance Premium Rate per $1,000

n=Original repayment period, in months.

(f) Premium rate standards for other benefit plans and for indebtedness repayable in installments other than as indicated above shall be acturially consistent with the above rate standards.

"§ 58-351. *Premium refunds or credits.*—(a) Each individual policy or group certificate shall provide that in the event of termination of the insurance prior to the scheduled maturity date of indebtedness, any refund of an amount paid by the debtor for insurance shall be paid or credited promptly to the person entitled thereto.

(b) Except as provided in subsection (c) of this section, the refund of premiums in the case of reducing term credit life insurance or credit accident and health insurance shall be equal to the amount computed by the sum-of-digits formula commonly known as the 'Rule of 78'; and, the refund of premium in the case of level term credit life insurance shall be equal to the pro rata unearned gross premium.

(c) With respect to insurance written pursuant to G.S. 53-189, the refund of premiums in the case of credit life insurance or credit accident insurance shall be equal to the pro rata unearned gross premiums if refunded during the first 60 days of the policy, and equal to the sum-of-digits formula known as the 'Rule of 78' method if refunded thereafter.

(d) No refund need be made if the amount thereof is less than one dollar.

(e) If a creditor requires a debtor to make any payment for credit life insurance or credit accident and health insurance and an individual policy or group certificate of insurance is not issued, the creditor shall immediately give written notice to such debtor and shall promptly make an appropriate credit to the account.

"§ 58-352. *Issuance of policies.*—All policies of credit life insurance and credit accident and health insurance shall be delivered or issued for delivery in this State only by an insurer authorized to do an insurance business therein, and shall be issued only through holders of licenses or authorizations issued by the commissioner. The enrollment of debtors under a group policy issued to a creditor and authorized under this Article shall not constitute the issuance of a policy of insurance.

"§ 58-353. *Claims.*—(a) All claims shall be promptly reported to the insurer or its designated claim representative, and the insurer shall maintain adequate claim files. All claims shall be settled as soon as possible and in accordance with the terms of the insurance contract.

(b) All claims shall be paid either by draft drawn upon the insurer, or by check of the insurer or be paid by such other specified method upon the

direction of the beneficiary who is entitled thereto pursuant to the policy provisions.

(c) No plan or arrangement shall be used whereby any person, firm or corporation other than the insurer or its designated claim representative shall be authorized to settle or adjust claims. The creditor shall not be designated as claim representative for the insurer in adjusting claims; provided, that a group policyholder may, by arrangement with the group insurer, draw drafts or checks in payment of claims due to the group policyholder subject to audit and review by the insurer.

"§ 58-354. *Existing insurance - choice of insurer.*—When credit life insurance or credit accident and health insurance is required for any indebtedness, the debtor shall, upon request to the creditor, have the option of furnishing the required amount of insurance through existing policies of insurance owned or controlled by him or of procuring and furnishing the required coverage through any insurer authorized to transact an insurance business within this State.

"§ 58-355. *Enforcement.*—The commissioner may, after notice and hearing, issue rules and regulations necessary for the implementation of this act. Whenever the commissioner finds that there has been a violation of this act or any rules or regulations issued pursuant thereto, and after written notice thereof and hearing given to the insurer or other person authorized or licensed by the commissioner, he shall set forth the details of his findings together with an order for compliance by a specified date. Such order shall be binding on the insurer and other person authorized or licensed by the commissioner on the date specified unless sooner withdrawn by the commissioner or a stay thereof has been ordered by a court of competent jurisdiction. The provisions of G.S. 58-345, 346, 347, 348, 349, 350, and 351 shall not be operative until 90 days after the effective date of this act, and the commissioner in his discretion may extend by not more than an additional 90 days the initial period within which the provisions of said sections shall not be operative.

"§ 58-356. *Judicial review.*—Any party to the proceeding affected by an order of the commissioner shall be entitled to judicial review by following the procedure set forth in Sections 58-9.3 to 58-9.6 of the General Statutes.

"§ 58-357. *Penalties.*—In addition to any other penalty provided by law, any person, firm or corporation which willfully violates an order of the commissioner after it has become final, and while such order is in effect, shall, upon proof thereof to the satisfaction of the court, forfeit and pay to the State of North Carolina a sum not to exceed two hundred fifty dollars ($250.00) which may be recovered in a civil action, except that if such violation is found to be willful, the amount of such penalty shall be a sum not to exceed one thousand dollars ($1,000). The commissioner, in his discretion, may revoke or suspend the license or certificate of authority of the person, firm or corporation guilty of such willful violation. Such order for suspension or revocation shall be upon notice and hearing, and shall be subject to judicial review as provided in G.S. 58-356. Any creditor who requires credit life insurance or credit accident and health insurance, or both, in excess of the amounts set forth in G.S. 58-344 or who violates the provisions of G.S. 58-354 shall be guilty of a misdemeanor, the penalty for which shall be a fine of five hundred dollars ($500.00) for each such occurrence or violation.

"§ 58-358. *Reinsurance.*—Any insurance company writing credit life or credit accident and health insurance subject to the provisions of this Article may

reinsure its liability under any or all of such insurance with any domestic or foreign life insurance company; provided, that in the event such reinsurance is with a company not authorized to do business within this State and such company does not meet the statutory requirements for admission, the direct writing company shall, notwithstanding such reinsurance, maintain all of the reserves required by the commissioner of such line of business as if such reinsurance contract or treaty had not been entered into and shall continue primarily responsible for such insurance."

Sec. 2. Section 53-189 of the General Statutes of North Carolina is rewritten to read as follows:

"*Insurance.*—(a) Credit life and credit accident and health insurance may be written in accordance with the provisions of 'The North Carolina Act for the Regulation of Credit Life Insurance and Credit Accident and Health Insurance.'

(b) The premium or cost of credit life, credit accident and health or property insurance, when written by or through any lender or other creditor, its affiliate, associate or subsidiary shall not be deemed as interest or charges or consideration or an amount in excess of permitted charges in connection with the loan or credit transaction and any gain or advantage to any lender or other creditor, its affiliate, associate or subsidiary, arising out of the premium or commission or dividend from the sale or provision of such insurance shall not be deemed a violation of any other law general or special, civil or criminal of this State, or of any rule, regulation or order issued by any regulatory authority of this State."

Sec. 3. If any provision of this act, or the application of such provision to any person or circumstances, shall be held invalid, the remainder of this act, and the application of such provision to any person or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Sec. 4. G.S. 58-210(2)(d) and (e), and G.S. 58-260.2 are repealed.

Sec. 5. The effective date of this act shall be 90 days after ratification. All credit life and credit accident and health insurance policies, delivered or issued for delivery on or after the effective date of this act shall conform to the provisions of this act. With regard to existing group credit insurance policies, the rates and forms shall be amended to conform to the requirements of this act, or be terminated, not later than the anniversary of the date of issue of the contract next following the effective date of this act.

In the General Assembly read three times and ratified, this the 18th day of June, 1975.

S. B. 774 CHAPTER 661

AN ACT TO LIMIT THE AMOUNT OF INDIVIDUAL AND CORPORATE INCOME TAX DEDUCTION FOR NORTH CAROLINA DIVIDENDS TO FIFTEEN THOUSAND DOLLARS ($15,000) AND TO AMEND CERTAIN INTANGIBLES TAX PROVISIONS TO CONFORM THERETO.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-147(7) as the same appears in Volume 2D of the 1974 Cumulative Supplement to the General Statutes of North Carolina is hereby amended by adding a sentence at the end thereof to read as follows:

"In no case shall the total amount of dividends that are deducted from a taxpayer's gross income as a result of the application of the provisions of this subsection be in excess of fifteen thousand dollars ($15,000) for the taxable year, except that this limitation shall not apply to dividends received from a corporation for which a valid election to be taxed under Subchapter S of Chapter 1 of the Internal Revenue Code is in effect."

Sec. 2. G.S. 105-130.7 as the same appears in Volume 2D of the 1974 Cumulative Supplement to the General Statutes of North Carolina is hereby amended by adding a new subsection (6) to read as follows:

"(6) In no case shall the total amount of dividends that are allowed as a deduction to a corporation as a result of the application of subsections (1) through (3) of this section be in excess of fifteen thousand dollars ($15,000) for the taxable year."

Sec. 3. G.S. 105-204 is hereby amended by the addition of the statement "without regard to the fifteen thousand dollar ($15,000) limitation under subsection (7) of G.S. 105-147" immediately after the phrase "of G.S. 105-147" and immediately preceding the semicolon on line 15.

Sec. 4. G.S. 105-203, as the same appears in Volume 2D of the 1974 Cumulative Supplement to the General Statutes of North Carolina, is hereby amended by the addition of the statement "without regard to the fifteen thousand dollar ($15,000) limitation under subsection (7) of G.S. 105-147 and G.S. 105-130.7" immediately after the number "105-147(7)" and immediately preceding the period on line 9.

Sec. 5. This act shall be effective for income years beginning on and after July 1, 1975.

In the General Assembly read three times and ratified, this the 18th day of June, 1975.

S. B. 823 CHAPTER 662

AN ACT TO AMEND CHAPTER 132 OF THE GENERAL STATUTES OF NORTH CAROLINA TO EXCLUDE ATTORNEY-CLIENT COMMUNICATIONS TO PUBLIC BOARDS AND AGENCIES FROM THE APPLICATION OF THE CHAPTER.

The General Assembly of North Carolina enacts:

Section 1. Chapter 132 of the General Statutes of North Carolina as the same appears in the 1974 Replacement Volume 3B is amended by adding thereto a new section to be inserted immediately following G.S. 132-1 reading as follows:

"§ 132-1.1. *Confidential communications by legal counsel to public board or agency; not public records.*—Public records, as defined in G.S. 132-1, shall not include written communications (and copies thereof) to any public board, council, commission or other governmental body of the State or of any county, municipality or other political subdivision or unit of government, made within the scope of the attorney-client relationship by any attorney at law serving any such governmental body, concerning any claim against or on behalf of the governmental body or the governmental entity for which such body acts, or concerning the prosecution, defense, settlement or litigation of any judicial action, or any administrative or other type of proceeding to which the governmental body is a party or by which it is or may be directly affected. Such

written communication and copies thereof shall not be open to public inspection, examination or copying unless specifically made public by the governmental body receiving such written communications; provided, however, that such written communications and copies thereof shall become public records as defined in G.S. 132-1 three years from the date such communication was received by such public board, council, commission or other governmental body."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of June, 1975.

S. B. 833

CHAPTER 663

AN ACT TO ESTABLISH THE LAW AND ORDER COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Chapter 143B of the General Statutes is amended by adding a new Part 23 as follows:

"Part 23. Governor's Law and Order Commission.

"§ 143B-337. *Governor's Law and Order Commission; creation.*—(a) There is hereby created the Governor's Law and Order Commission of the Department of Natural and Economic Resources. The commission shall consist of 28 members, including the Governor. The composition of the commission shall be as follows:

(1) Eight ex officio members of State Government including the Governor, the Attorney General, the Director of the State Bureau of Investigation, the Commander of the State Highway Patrol, the Secretary of Administration, the Director of the Administrative Office of the Courts, the Secretary of Correction, and the Chairman of the Paroles Commission.

(2) Twenty members appointed by the Governor consisting of two sheriffs, two police executives, one judge of the superior court, one judge of the district court, one district attorney, two citizens (one with knowledge of juvenile delinquency), one attorney specializing in defense of criminal cases, five county commissioners appointed after consultation with the North Carolina Association of County Commissioners, five mayors or other elected municipal officials appointed after consultation with the North Carolina League of Municipalities.

(b) The initial members of the commission shall be the previously appointed members of the Committee on Law and Order who shall serve for a period equal to the remainder of their current terms on the Law and Order Committee, all of which terms expire on June 30, 1975. The Governor shall thereafter appoint members, other than those serving ex officio designated in subsection (a)(1), to serve three-year staggered terms. Seven shall be appointed for one-year terms, seven for two-year terms, and six for three-year terms. At the end of their respective terms of office their successors shall be appointed for terms of three years and until their successors are appointed and qualified. Successors, whether for a full term or to fill a vacancy, to the county and municipal officials initially appointed shall be appointed after consultation in the same manner as the initial members. Any appointment to fill a vacancy on the commission created by the resignation, dismissal, death or disability of a member, or created by disqualification by virtue of a member no longer serving in the office from

which he qualified for appointment, shall be for the balance of the unexpired term. The Governor may annually designate a member of the commission to serve as its chairman, and one to serve as its vice-chairman.

The Governor shall have the power to remove any member of the commission from office for misfeasance, malfeasance or nonfeasance.

The committee shall meet quarterly and at other times at the call of the chairman or upon written request of at least 11 of the members.

A majority of the commission shall constitute a quorum for the transaction of business.

"§ 143B-338. *Governor's Law and Order Commission; powers and duties.*—(a) The Law and Order Commission shall have the following powers and duties:

(1) to assist and participate with State and local law enforcement agencies to improve law enforcement and the administration of criminal justice;

(2) to make studies and recommendations for the improvement of law enforcement and the administration of criminal justice;

(3) to encourage public support and respect for law and order;

(4) to seek ways to continue to make North Carolina a safe and secure State for its citizens;

(5) to accept gifts, bequests, devises, grants, matching funds, and other considerations from private or governmental sources for use in promoting its work; and

(6) to make grants for use in pursuing its objectives, under such conditions as are deemed to be necessary.

(b) The commission is authorized and empowered to adopt such rules and regulations, not inconsistent with the laws of this State, as may be required by the federal government for grants-in-aid for law and order purposes which may be made available for the State by the federal government. The Law and Order Commission shall be the State agency responsible for establishing policy, planning and carrying out the State's duties with respect to all grants to the State by the Law Enforcement Assistance Administration of the United States Department of Justice. In respect to such grants, the commission shall have authority to review, approve and maintain general oversight of the State plan and its implementation, including subgrants and allocations to local units of government.

All decisions and grants heretofore made by the Committee on Law and Order shall remain in full force and effect unless and until repealed or superseded by action of the Law and Order Commission established herein. All actions adopted by the commission shall be enforced by the Administrator, Law and Order Section, of the Department of Natural and Economic Resources.

"§ 143B-339. *Law and Order Section of Department of Natural and Economic Resources.*—(a) There is hereby established, within the Department of Natural and Economic Resources, the Law and Order Section, which shall be organized and staffed in accordance with applicable laws and regulations and within the limits of authorized appropriations.

(b) The Department of Natural and Economic Resources shall provide clerical and other services required by the Law and Order Commission, and shall administer the State Law Enforcement Assistance Program and such additional related programs as may be established by or assigned to the commission.

Administrative responsibilities shall include, but are not limited to, the following:

(1) compile data, establish needs and set priorities for funding as policy recommendations for the commission;

(2) prepare statewide plans for adoption by the commission which are designated to improve systematically the administration of criminal justice and the reduction of crime in North Carolina and revise them from time to time as may be appropriate;

(3) advise State and local interests of opportunities for securing federal assistance for crime reduction and for improving criminal justice administration and planning within the State of North Carolina;

(4) stimulate and seek financial support from federal, State, and local government and private sources for programs and projects which implement adopted criminal justice administration improvement and crime reduction plans;

(5) assist State agencies and units of general local government and combinations thereof in the preparation and processing of applications for financial aid to support improved criminal justice administration, planning, and crime reduction;

(6) encourage and assist in the coordination of programs and activities of the several interests in the criminal justice system at the federal, State and local government levels in the preparation and implementation of adopted criminal justice administration improvements and crime reduction plans;

(7) apply for, receive, disburse and audit the use of funds received for the program from any public and private agencies and instrumentalities for criminal justice administration, planning, and crime reduction purposes;

(8) enter into, monitor and evaluate the results of contracts and agreements necessary or incidental to the discharge of responsibilities assigned;

(9) take such other actions as may be necessary and appropriate to carry out assigned duties and responsibilities."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of June, 1975.

S. B. 868

CHAPTER 664

AN ACT TO CORRECT OMISSIONS, TECHNICAL ERRORS, AND INTERNAL INCONSISTENCIES IN CHAPTERS 160A, 136, AND 106 OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. Unless otherwise provided, all references in this act to portions of Chapter 160A of the General Statutes refer to Chapter 160A as it appears in the 1972 Replacement Volume 3D of the General Statutes.

Sec. 2. G.S. 106-386 is repealed.

Sec. 3. G.S. 136-66.1 is amended by striking the phrase "Article 9 of Chapter 160" in the fourth line of the last paragraph, and inserting in lieu thereof "Article 10 of Chapter 160A".

Sec. 4. G.S. 160A-9.2(4), as it appears in the 1974 Cumulative Supplement to Volume 3D of the General Statutes, is amended by inserting in line 6 after the word and punctuation "Congress," and before the word "or" the words and punctuation "or within four miles of the corporate limits of any other city having a population of 25,000 or more according to the most recent decennial census of population taken by order of Congress,".

Sec. 5. G.S. 160A-74 is amended by striking out the first two sentences and inserting in lieu thereof the following: "A majority of the actual membership of the council, excluding vacant seats, shall constitute a quorum."

Sec. 6. (a) G.S. 160A-101(6), as it appears in the 1974 Cumulative Supplement to Volume 3D of the General Statutes, is amended by adding a new paragraph "e." to read as follows:

"e. The city shall be divided into single-member electoral districts; council members shall be apportioned to the districts so that each member represents the same number of persons as nearly as possible, except for members apportioned to the city at large, if any; in a nonpartisan primary, the qualified voters of each district shall nominate two candidates who reside in the district, and the qualified voters of the entire city shall nominate two candidates for each seat apportioned to the city at large, if any; and all candidates shall be elected by all the qualified voters of the city."

(b) G.S. 160A-101(6), as it appears in the 1974 Cumulative Supplement to Volume 3D of the General Statutes, is further amended by striking the letters and words "b or c or d" in the first line of the last paragraph, and inserting in lieu thereof the letters and word "b, c, d or e".

(c) Nothing contained in this section shall be construed to alter any existing form of government of any municipality.

Sec. 7. G.S. 160A-209(d), as it appears in the 1974 Cumulative Supplement to Volume 3D of the General Statutes, is rewritten to read as follows:

"(d) Property taxes may be levied for one or more of the purposes listed in subsection (c) up to a combined rate of one dollar and fifty cents ($1.50) on the one hundred dollars ($100.00) appraised value of property subject to taxation."

Sec. 8. (a) G.S. 160A-216 is amended by striking the word "waterlines" in paragraph (3) and inserting in lieu thereof the words "water systems".

(b) G.S. 160A-216 is further amended by striking the words "sanitary sewer lines" in paragraph (4) and inserting in lieu thereof the words "sewage disposal systems".

Sec. 9. G.S. 160A-274(b) is amended by inserting in line 2 after the word and punctuation "wise," and before the word "exchange", the words and punctuation "with or without consideration,".

Sec. 10. G.S. 160A-284 is amended by adding at the end thereof a new sentence as follows:

"The office of auxiliary policeman is hereby declared to be an office that may be held concurrently with any elective office pursuant to Article VI, Section 9, of the Constitution."

Sec. 11. (a) G.S. 160A-319 is amended by inserting in line 3 thereof, between the citation "G.S. 160A-311" and the period, the words "and for the operation of telephone systems".

(b) G.S. 160A-319 is further amended by inserting in line 5 thereof, between the comma and the word "upon", the words and punctuation "when a city operates an enterprise, or".

Sec. 12. G.S. 160A-356 is amended by striking all of the section after the first sentence.

Sec. 13. G.S. 160A-357 is repealed.

Sec. 14. G.S. 160A-406, as it appears in the 1974 Cumulative Supplement to Volume 3D of the General Statutes, is rewritten to read as follows:

"§ 160A-406. *Appropriations authorized.*—For the purposes set forth in this Part, a county or city may appropriate funds not otherwise limited as to use by law."

Sec. 15. G.S. 160A-441, as it appears in the 1974 Cumulative Supplement to Volume 3D of the General Statutes, is amended by adding a second paragraph thereto to read as follows:

"In addition to the exercise of police power authorized herein, any city may by ordinance provide for the repair, closing or demolition of any abandoned structure which the city council finds to be a health or safety hazard as a result of the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children or frequent use by vagrants as living quarters in the absence of sanitary facilities. Such ordinance, if adopted, may provide for the repair, closing or demolition of such structure pursuant to the same provisions and procedures as are prescribed herein for the repair, closing or demolition of dwellings found to be unfit for human habitation."

Sec. 16. G.S. 160A-455 is amended by striking the words "and a necessary expense" at the end thereof and inserting a period after the word "purpose".

Sec. 17. G.S. 160A-488(b) is rewritten to read as follows:

"For the purposes set forth in this section, a city or county may appropriate funds not otherwise limited as to use by law."

Sec. 18. G.S. 160A-489 is amended by striking the last two sentences and inserting in lieu thereof the following:

"For the purposes set forth in this section, a city may appropriate funds not otherwise limited as to use by law."

Sec. 19. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 18th day of June, 1975.

S. B. 892

CHAPTER 665

AN ACT RELATING TO THE GAME OF BINGO IN THE COUNTY OF CRAVEN.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of Article 37 of Chapter 14 of the General Statutes, it shall be lawful for either civic, charitable, religious, non-profit organizations, or war veterans' organizations to sponsor or operate the game of "bingo" in Craven County; provided, however, that no cash prizes shall be awarded to any of the participants.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of June, 1975.

H. B. 28

CHAPTER 666

AN ACT TO ABOLISH AGE DISCRIMINATION IN AUTOMOBILE INSURANCE CLASSIFICATIONS AND TO IMPLEMENT CLASSIFICATIONS WHICH ESTABLISH OBJECTIVE STANDARDS FOR RATES.

The General Assembly of North Carolina enacts:

Section 1. Article 3 of Chapter 58 of the General Statutes of North Carolina is hereby amended by adding the following new sections thereto to be designated "G.S. 58-30.3" and "G.S. 58-30.4" respectively, and reading as follows:

"§ 58-30.3. *Discriminatory practices prohibited.*—No insurer shall after September 1, 1975, base any standard or rating plan for private passenger automobiles or motorcycles, in whole or in part, directly or indirectly, upon the age or sex of the persons insured.

"§ 58-30.4. *Revised classifications and rates.*—The North Carolina Automobile Rate Administrative Office shall file with the Commissioner of Insurance for his approval or other action as provided in G.S. 58-248.1 a revised basic classification plan and a revised sub-classification plan for coverages on private passenger (non-fleet) automobiles in this State affected by the provisions of G.S. 58-30.3. Said revised basic classification plan will provide for the following four basic classifications, to wit: (1) Pleasure use only; (2) Pleasure use except for driving to and from work; (3) Business use; and (4) Farm use. The North Carolina Automobile Rate Administrative Office shall file with the Commissioner of Insurance for his approval or other action as provided in G.S. 58-248.1 a revised sub-classification plan with premium surcharges for insureds having less than two years' driving experience as licensed drivers, or having a driving record consisting of a record of a chargeable accident or accidents, or having a driving record consisting of a conviction or convictions for a moving traffic violation or violations, or any combination thereof. Said sub-classification plan shall be designed to provide not less than one fourth of the total premium income of insurers in writing and servicing the aforesaid coverages in this State.

The revised basic classification and sub-classification plans specified in this section shall supersede the existing basic classification and sub-classification plans on the hereinabove specified coverages.

The commissioner is authorized and directed to implement the plans provided for in this section on September 2, 1975."

Sec. 2. G.S. 58-248.9 is repealed.

Sec. 3. The Commissioner of Insurance and the North Carolina Automobile Rate Administrative Office shall prepare a comprehensive report assessing the impact and evaluating the success of this act in removing discrimination from automobile insurance classifications. The report shall be delivered to the Chairmen of the House and Senate Committees on Insurance by February 15, 1977.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of June, 1975.

H. B. 132 CHAPTER 667

AN ACT TO AMEND CHAPTER 126 OF THE GENERAL STATUTES OF NORTH CAROLINA, MODIFYING THE STATE PERSONNEL SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. All amending provisions of this bill refer to Chapter 126 as it appears in North Carolina General Statutes 1974 Replacement Volume 3B.

Sec. 2. G.S. 126 is amended to substitute the word "Commission" for the word "Board" wherever it is shall appear.

Sec. 3. G.S. 126-2 is amended by rewriting subsection (c) to read as follows:

"(c) Members of the Commission appointed after February 1, 1976, shall be appointed subject to confirmation by the General Assembly of North Carolina. If the General Assembly is not in session when an appointment is made, the appointee shall temporarily exercise all of the powers of a confirmed member until the convening of the next legislative session. If the General Assembly does not act on confirmation of a proposed member within 30 legislative days of the submission of the name, the member shall be considered confirmed. If the Governor does not appoint a new member within 60 calendar days of the occurrence of a vacancy or the rejection of an appointment by the General Assembly, the remaining members of the Board shall have the authority to fill the vacancy."

Sec. 4. G.S. 126-2(f) is amended by changing the first word "Five" to read "Four".

Sec. 5. G.S. 126-3 is rewritten to read as follows:

"§ 126-3. *Office of State Personnel established; administration and supervision; appointment, compensation and tenure of Director.*—There is hereby established the Office of State Personnel (hereinafter referred to as 'the Office') which shall be placed for organizational purposes within the Department of Administration. Notwithstanding the provisions of North Carolina State Government Reorganization as of January 1, 1975, and specifically notwithstanding the provisions of Chapter 864 of the 1971 North Carolina Session Laws, the Office of State Personnel shall exercise all of its statutory powers in this act independent of control by the Secretary of Administration and shall be under the administration and supervision of a State Personnel Director (hereinafter referred to as 'the Director') appointed by the

Governor and subject to the supervision of the Commission for purposes of this act. The salary of the Director shall be fixed by the Governor subject to the approval of the Advisory Budget Commission. The Director shall serve at the pleasure of the Governor."

Sec. 6. G.S. 126-4 is amended by rewriting subsection (9) to read as follows:

"(9) The investigation of complaints and the hearing of appeals of applicants, employees, and former employees and the issuing of such binding corrective orders or such other appropriate action concerning employment, promotion, demotion, transfer, discharge, and reinstatement in all cases as the Commission shall find justified."

Sec. 7. G.S. 126-4 is further amended by redesignating subsection (10) as subsection (13) and by inserting new subsections (10), (11) and (12) to read as follows:

"(10) In cases where the Commission finds discrimination or orders reinstatement, the assessment of reasonable attorney fees and witness fees against the State agency involved.

(11) The appointment of hearing officers to hear appeals at various locations around the State as provided for in Article 3 of Chapter 150A, and the relationship of the record made by such hearing officers to proceedings by the Commission.

(12) The employment of independent attorneys to represent the Department when some conflict would result from using Department of Justice attorneys."

Sec. 8. G.S. 126-5 is amended by rewriting subsection (b) in its entirety to read as follows:

"(b) The provisions of this Chapter shall not apply to public school superintendents, principals, teachers, and other public school employees. Except as to Articles 6 and 9, the provisions of this Chapter shall not apply to the following persons or employees: instructional and research staff, physicians and dentists of the University of North Carolina; employees whose salaries are fixed under the authority vested in the Board of Governors of the University of North Carolina by the provisions of G.S. 116-11(4), 116-11(5), and 116-14; community colleges' employees whose salaries are fixed in accordance with the provisions of G.S. 115A-5 and 115A-14; members of boards, committees, commissions, councils, and advisory councils compensated on a per diem basis; officials or employees whose salaries are fixed by the Governor, or by the Governor and Council of State, or by the Governor subject to the approval of the Council of State or the Advisory Budget Commission; employees of the General Assembly and its agencies and temporary employees of activities ancillary to the General Assembly; employees of the Judicial Department; blind or visually handicapped employees of the Department of Human Resources, Division of Services for the Blind, Business Enterprise Section, vending stand employees; constitutional officers of the State and except as to salaries:

(1) The chief deputy or chief administrative assistant to the head of each State department who is designated either by statute or by the administrative head to act for and perform all of the duties of such administrative head during his absence or incapacity;

(2) One confidential assistant and two confidential secretaries for each elected or appointed department head and one confidential secretary for each chief deputy or chief administrative assistant;

(3) Other deputies, administrative assistants, division or agency heads or other employees, by whatever title, that serve in policy-making positions, such positions to be designated by the Governor or by each elected department head in a letter to the State Personnel Director, the Speaker of the North Carolina House of Representatives, and the President of the North Carolina Senate by May 1 of the year in which the oath of office is administered to each governor;

(4) One confidential secretary to each position designated under the provisions of G.S. 126-5(b) (3);

(5) All employees of the offices of the Governor and Lieutenant Governor."

Sec. 9. G.S. 126-5 is amended by adding subsections (c), (d) and (e) to read as follows:

"(c) Any career employee who has occupied a position subject to the personnel act and who is replaced after the position is exempted as provided in G.S. 126-5(b) shall be provided with all possible assistance in being appropriately relocated in State Government. Any person appointed to an exempt position shall not be considered a career employee in that position. If a career employee in a subject position transfers to an exempt position, the career employee may retain status in his former position as if on leave of absence for the term of his exempt appointment.

(d) In case of dispute as to whether an employee is subject to the provisions of this Chapter, the question shall be investigated by the State Personnel Office and decided by the State Personnel Commission, subject to the approval of the Governor, and such decision shall be final.

(e) For the purposes of this act, a career employee is defined as one who has been employed by the State for five consecutive years."

Sec. 10. A new Article 7 is added to Chapter 126 to read as follows:

"ARTICLE 7.

"Employee Appeals of Grievances and Disciplinary Action.

"§ 126-17. *Grievance appeal for State employees.*—Any permanent State employee having a grievance arising out of or due to his employment and who does not allege discrimination because of his age, sex, race, color, national origin, religion, creed, physical disability, or political affiliation shall first discuss his problem or grievance with his supervisor and follow the grievance procedure established by his department or agency.

"§ 126-18. *Written statement of reason for disciplinary action.*—No permanent employee subject to the State Personnel Act shall be discharged, suspended, or reduced in pay or position, except for just cause. In cases of such disciplinary action, the employee shall, before the action is taken, be furnished with a statement in writing setting forth in numerical order the specific acts or omissions that are the reasons for the disciplinary action and the employee's appeal rights. The employee shall be permitted 15 days from the date the statement is delivered to appeal to the head of the department. A copy of the written statement given the employee and the employee's appeal, shall be filed by the department with the State Personnel Director within five days of their delivery. However, an employee may be suspended without warning for causes relating to personal conduct detrimental to State service, pending the giving of written reasons, in order to avoid undue disruption of work or to protect the safety of persons or property or for other serious reasons. The employee, if he is not satisfied with the final decision of the head of the department, or if he is unable, within a reasonable period of time, to obtain a final decision by the head

of the department, may appeal to the State Personnel Commission. Such appeal shall be filed not later than 30 days after receipt of notice of the department head's decision.

"§ 126-19. *Appeal of unlawful State employment practice.*—Any applicant for State employment or State employee or former State employee who has reason to believe that employment, promotion, training, or transfer was denied him or that demotion, lay-off or termination of employment was forced upon him because of his age, sex, race, color, national origin, religion, creed, political affiliation, or physical disability except where specific age, sex or physical requirements constitute a bona fide occupational qualification necessary to proper and efficient administration, shall have the right to appeal directly to the State Personnel Commission.

"§ 126-20. *Personnel Director investigate, hear, recommend settlement; Personnel Commission hear or review findings and make binding decision.*—The State Personnel Director or any other person or persons designated by the Commission shall investigate the disciplinary action or alleged discrimination which is appealed to the Commission. The State Personnel Commission may hear the case or direct the State Personnel Director or other person or persons designated by the Commission to conduct a hearing of the facts and issues. If, following the investigation and hearing, a settlement is agreed to by both parties, the State Personnel Director or the designated agent shall certify the settlement to the Commission. If, following the investigation and hearing, there are issues and facts on which agreement cannot be reached, the Personnel Director or the designated agent shall report his findings to the Commission with his recommendations. The Commission at its next meeting, or as soon as possible thereafter, shall consider the report and modify, alter, set aside or affirm said report and certify its findings to the appointing authority which shall be binding. The State Personnel Commission is hereby authorized to reinstate any employee to the position from which he has been removed, to order the employment, promotion, transfer, or salary adjustment of any individual to whom it has been wrongfully denied or to direct other suitable action to correct the abuse which may include the requirement of payment for any loss of salary which has resulted from the improperly discriminatory action of the appointing authority. The decisions of the State Personnel Commission shall be binding in appeals of local employees subject to this Chapter if the Commission finds that the employee has been subjected to discrimination prohibited by Article 6 of this Chapter or in any case where a binding decision is required by applicable federal standards. However, in all other local employee appeals, the decisions of the State Personnel Commission shall be advisory to the local appointing authority."

Sec. 11. A new Article 8 is added to Chapter 126 to read as follows:

"ARTICLE 8.

"The Administrative Procedure Act and Modifications.

"§ 126-21. *The Administrative Procedure Act.*—The provisions of the Administrative Procedure Act, Chapter 150A, shall apply to the State Personnel System and hearing and appeal matters before the Commission, except where there are specific statutory provisions to the contrary, including the following:

(a) G.S. 150A-29, concerning the rules of evidence, shall not apply, except on specific written request to the Commission by an aggrieved party appearing before the Commission.

(b) The last sentence of G.S. 150A-27, concerning fees for subpoenaed witnesses, shall not apply.

"§ 126-22. *Witness fees.*—The party requesting the subpoena to subpoenaed witnesses who are not State officials or employees shall pay witness fees in accordance with G.S. 7A-314. State officials or employees who are subpoenaed shall not be entitled to any witness fees, but they shall receive their normal salary and they shall not be required to take any annual leave for the witness days. Travel expenses of State officials or employees who are subpoenaed shall be reimbursed as provided in G.S. 138-6.

"§ 126-23. *Disqualification of hearing officers.*—A party may by making timely written objection cause the disqualification of up to two hearing officers assigned to hear his case, unless the hearing shall be before a member, or members of the Commission. Commission members may be disqualified only under the provisions of G.S. 150A-32(b) of the Administrative Procedure Act."

Sec. 12. G.S. 126-10 is amended by deleting the words "State Personnel Department" in lines 2 and 3 in the 1974 Replacement of Volume 3B of the General Statutes of North Carolina and substituting the words "Office of State Personnel".

Sec. 13. This act shall become effective on February 1, 1976.

In the General Assembly read three times and ratified, this the 18th day of June, 1975.

H. B. 142 CHAPTER 668

AN ACT TO AMEND ARTICLE 3A OF CHAPTER 58 OF THE GENERAL STATUTES TO INCLUDE UNFAIR CLAIMS SETTLEMENT PRACTICES WITHIN THE DEFINITION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES.

The General Assembly of North Carolina enacts:

Section 1. Article 3A of Chapter 58 of the General Statutes as the same appears in Volume 2B of the General Statutes is hereby amended by the addition of the following subsection to be designated G.S. 58-54.4(11) and reading as follows:

"§ 58-54.4(11). In connection with first party claims, committing or performing with such frequency as to indicate a general business practice any of the following:

(a) misrepresenting pertinent facts or insurance policy provisions relating to coverages at issue;

(b) failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies;

(c) failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies;

(d) refusing to pay claims without conducting a reasonable investigation based upon all available information;

(e) failing to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed;

(f) not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear;

(g) compelling insured to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in actions brought by such insureds;

(h) attempting to settle a claim for less than the amount to which a reasonable man would have believed he was entitled;

(i) attempting to settle claims on the basis of an application which was altered without notice to, or knowledge or consent of the insured;

(j) making claims payments to insureds or beneficiaries not accompanied by statement setting forth the coverage under which the payments are being made;

(k) making known to insureds or claimants a policy of appealing from arbitration awards in favor of insureds or claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration;

(l) delaying the investigation or payment of claims by requiring an insured claimant, or the physician of either to submit a preliminary claim report and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information;

(m) failing to promptly settle claims, where liability has become reasonably clear, under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage; and

(n) failing to promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of June, 1975.

H. B. 235 CHAPTER 669

AN ACT TO PREVENT TAKING MIGRATORY WATERFOWL WITH THE AID OF BAIT OR LIVE DECOYS.

The General Assembly of North Carolina enacts:

Section 1. Section 113-104 of the General Statutes of North Carolina is hereby amended by adding at the end thereof a new paragraph to read as follows:

"It shall be unlawful for any person to take any migratory waterfowl with the aid of bait or live decoys, or on, over or within 300 yards of any place where any grain, salt or other feed is exposed so as to constitute an attraction to migratory waterfowl or has been so exposed during any of the 10 consecutive days immediately preceding the taking, or on, over or within 300 yards of any place where tame or captive migratory waterfowl are present, unless such birds are and have been for a period of 10 consecutive days prior to such taking confined within an enclosure which substantially reduces the audibility of their calls and totally conceals such birds from the sight of wild migratory waterfowl. Nothing in this paragraph shall prohibit the taking of migratory waterfowl on or over standing crops, flooded croplands, grain crops properly shocked on the field where grown, or grains found scattered solely as the result of normal agricultural planting or harvesting."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of June, 1975.

H. B. 343 CHAPTER 670

AN ACT TO AMEND ARTICLE 13 OF CHAPTER 58 OF THE GENERAL STATUTES TO PROVIDE APPROPRIATE INSURANCE PREMIUM DISCOUNTS FOR ADEQUATE MOBILE HOME TIE-DOWNS.

The General Assembly of North Carolina enacts:

Section 1. Article 13 of Chapter 58 of the General Statutes is hereby amended by the addition of a new section thereto to be designated G.S. 58-131.3A to read as follows:

"§ 58-131.3A. *Premium discount for proper mobile home tie-down.*—The Commissioner is authorized and directed to implement not less than a ten percent (10%) discount from the insurance premium otherwise applicable to be allowed in diminution of the premium charged insureds under Mobile Home Owner Policies and Mobile-Homeowner's Policies where the mobile home covered by the policy has been properly secured in accordance with regulations of the North Carolina State Building Code Council as approved by the Commissioner or any other standard which is approved by the Commissioner and which affords no less protection from windstorm damage than the aforesaid regulations."

Sec. 2. This act shall become effective upon ratification but shall apply only to policies of insurance issued or renewed on and after November 1, 1975.

In the General Assembly read three times and ratified, this the 18th day of June, 1975.

H. B. 549 CHAPTER 671

AN ACT TO CONSOLIDATE THE CHARTER OF THE CITY OF DURHAM AND TO REPEAL PRIOR LOCAL ACTS.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the City of Durham is hereby consolidated and rewritten as follows:

"THE CHARTER OF THE CITY OF DURHAM.

"CHAPTER I.

"NAME, CORPORATE POWER, AND BOUNDARIES.

"Sec. 1. *Incorporation.*—That the inhabitants of the City of Durham shall be, and continue as they have been, a body politic and corporate, and henceforth the corporation shall continue to bear the name and style of the 'City of Durham', and under such name and style is hereby vested with all the property and rights of property which now belong to the corporation, and by this name may acquire and hold for the purpose of its government, welfare, and improvement, all such estate as may be devised, bequeathed, conveyed to, or otherwise acquired by it, and may, from time to time, sell, dispose of, and invest the same, as shall be deemed advisable by the proper authorities of the corporation, and as shall be in conformity with the provisions of this Charter.

"Sec. 2. *Corporate Boundaries.*—The corporate limits of the City of Durham shall be as follows:

BEGINNING at the point of intersection of the west right-of-way line U.S. Highway 15-501 and a line 200 feet south of the center line of Cornwallis Road; thence in a westerly direction along a line perpendicular to the west right-of-way line of U.S. 15-501, a distance of 200 feet; thence in a southerly direction along a line 200 feet west of and parallel to the west right-of-way line of U.S. 15-501 about 700 feet to a point; thence north 80° 42' west, a distance of 207.53 feet to a point; thence north 71° 4' west, 272.80 feet to a point; thence north 86° 40' west, a distance of 266.80 feet to a point; thence south 75° 7' west, a distance of 241.54 feet to a point; thence south 45° 0' west, a distance of 160.16 feet to a point; thence south 31° 24' west, a distance of 474.82 feet to a point; thence south 49° 19' west, a distance of 511.97 feet to a point; thence north 47° 50' 41" west, a distance of 505.90 feet to a point; thence north 49° 2' 41" west, a distance of 257.86 feet to a point; thence north 87° 8' 52" west, a distance of 524.12 feet to a point; thence south 3° 12' 4" west, a distance of 539.58 feet to a point; thence north 86° 46' 55" west, a distance of 250.00 feet to a point; thence south 6° 13' 5" west, a distance of 174.98 feet to a point; thence north 86° 46' 55" west, a distance of 230.65 feet to a point; on the eastern right-of-way line of Ridge Road; thence in a southerly direction along eastern right-of-way line of Ridge Road, the following courses and distances: south 6° 23' 12" west, a distance of 277.39 feet to a point; thence in a southerly direction along an arc to the left, said arc having a radius of 993.10 feet, a length of 101.83 feet to a point; thence south 0° 30' 42" west, a distance of 241.18 feet to a point; thence leaving said right-of-way line of Ridge Road south 85° 20' 17" east, a distance of 199.73 feet to a point, thence south 0° 32' 2" west, a distance of 199.81 feet to a point on the northern right-of-way line of Pickett Road; thence south 85° 41' 33" east along said northern right-of-way line of Pickett Road, a distance of 262.04 feet to a point; thence north 0° 22' 48" east, a distance of 249.46 feet to a point; thence south 82° 22' 48" east, a distance of 148.93 feet to a point; thence south 11° 34' 7" east, a distance of 249.44 feet to a point; on said northern right-of-way line of Pickett Road; thence south 85° 37' 55" east along said northern right-of-way line of Pickett Road, a distance of 674.87 feet to a point; thence south 81° 6' 07" east, a distance of 35.05 feet to a point; thence in an easterly direction along an arc to the right, said arc having a radius of 1030.47 feet, a length of 297.65 feet to a point; thence north 10° 58' east, a distance of 145.57 feet to a point; thence north 49° 45' east, a distance of 363.65 feet to a point; thence south 57° 29' east, a distance of 320.50 feet to a point; thence south 5° 19' west, a distance of 202.43 feet to a point; thence south 63° 39' east, a distance of 306.50 feet to a point, thence south 63° 48' east, a distance of 94.42 feet to a point 200 feet west of the western right-of-way line of U.S. 15-501; thence in a southerly direction along a line 200 feet west of and parallel to the west right-of-way line of U.S. 15-501 about 2230 feet to the point of intersection with the east line of the property of the City of Durham, formerly the property of L. G. Pickett, recorded in Plat Book 1, Page 260, Durham County Register of Deeds Office; thence in a southeasterly direction along said City of Durham property line in a projection thereof, a distance of about 830.00 feet to the point of intersection with the south right-of-way line of U.S. 15-501; thence in a southerly direction along a straight line that would intersect at a point 230 feet west of a center line of Shannon Road and 230 feet north of the

center line of Chapel Hill Road, a distance of about 3275 feet to a point on the D. L. Phillips property; thence north 85° 0' west, a distance of 604.70 feet to a point; thence south 5° 0' west, a distance of 863.69 feet to a point; thence south 85° 12' east, a distance of 240.0 feet to a point; thence south 84° 33' east, a distance of 337.00 feet to a point; thence south 51° 12' 30" east, a distance of 762.63 feet to a point 200 feet west of the western property line of Chapel Hill Road; thence in a southwesterly direction along a line 200 feet west of the western right-of-way line of Chapel Hill Road, a distance of approximately 820 feet to a point; thence southwardly along a line perpendicular to Chapel Hill Road, a distance of 260 feet to the southeast right-of-way line of Chapel Hill Road; thence southwardly along the west property line of (Van Trine Park) Subdivision as recorded in Plat Book 42, Page 3, a distance of approximately 900 feet to a point on the northern property line of Hope Valley West Subdivision; thence north 86° 59' west, a distance of 335.28 feet to a point; thence south 56° 20' west a distance of 351.85 feet to a point; thence south 4° 57' west, a distance of 180.05 feet to a point; thence north 85° 02' west, a distance of 270.37 feet to a point; thence south 5° 48' west a distance of 376.79 feet to a point; thence south 4° 43' 20" west, a distance of 317.00 feet to a point; thence south 49° 27' east, a distance of 361.22 feet to a point; thence south 40° 41' east, a distance of 94.00 feet to a point; thence south 36° 13' 20" east, a distance of 72.12 feet to a point; thence south 60° 0' 45" east, a distance of 143.00 feet to a point; thence south 5° 30' west, a distance of 143.50 feet to a point; thence south 2° 2' west, a distance of 50.08 feet to a point; thence south 5° 30' west, a distance of 152.50 feet to a point; thence south 73° 33' west, a distance of 114.92 feet to a point; thence south 11° 25' east, a distance of 57.00 feet to a point; thence south 33° 51' west, a distance of 39.44 feet to a point; thence south 5° 25' west, a distance of 375.00 feet to a point; thence south 47° 18' east, a distance of 191.84 feet to a point; thence south 82° 17' east, a distance of 59.10 feet to a point; thence south 53° 33' east, a distance of 186.00 feet to a point; thence north 67° 57' east, a distance of 76.00 feet to a point; thence south 5° 28' west, a distance of about 200 feet to a point; thence north 64° 28' west along the north property line of Walter A. Biggs and Claude Currie subdivision as recorded in Plat Book 49, Page 11, a distance of 506.20 feet to a point; thence north 62° 44' west, a distance of 357.40 feet to a point; thence north 85° 4' west, a distance of 1238.55 feet to a point; thence south 22° 9' east, a distance of 747.34 feet to a point; thence south 17° 10' east, a distance of 1060.89 feet to a point; thence south 33° 0' east, a distance of 273.03 feet to a point; thence south 25° 41' east, a distance of 237.73 feet to a point; thence south 16° 45' east, a distance of 256.38 feet to a point; thence south 84° 45' east, a distance of 74.30 feet to a point; thence south 20° 13' east, a distance of 607.80 feet to a point; thence south 69° 50' 0" west, a distance of 506.50 feet to a point on the western right-of-way line of Garrett Road; thence north 19° 59' 23" west along said western right-of-way line of Garrett Road, a distance of 120.00 feet to a point; thence in a northerly direction along an arc to the left, said arc having a radius of 4130.28 feet, a length of 379.36 feet to a point; thence leaving said western right-of-way line of Garrett Road, south 71° 55' west, a distance of 251.93 feet to a point; thence south 56° 2' 55" west, a distance of 52.37 feet to a point; thence north 85° 0' 0" west, a distance of 188.65 feet to a point; thence south 12° 39' west, a distance of 240.00 feet to a point; thence south 30° 33' west, a distance of 189.00 feet to a point; thence

south 35° 37' east, a distance of 60 feet to a point; thence south 17° 19' east, a distance of 42.00 feet to a point; thence south 50° 42' west, a distance 158.00 feet to a point; thence in a southerly direction along an arc to the right, said arc having a radius 50.00 feet, and a length of 62.68 feet to a point; thence in a southerly direction along an arc to the left, said arc having a radius of 20.00 feet, a length of 17.45 feet to a point; thence south 17° 28' east, a distance of 116.45 feet to a point; thence in an easterly direction, along an arc to the right, said arc having a radius of 2335.80 feet; a length of 21.81 feet to a point; thence continuing in an easterly direction along an arc to the right, said arc having a radius of 274.76 feet, a length of 162.36 feet to a point; thence south 10° 12' 3" east a distance of 262.23 feet to a point; thence south 61° 26' 9" east, a distance of 42.18 feet to a point; thence north 77° 41' 32" east, a distance of 182.73 feet to a point; thence north 61° 34' 44" east, a distance of 60.53 feet to a point; thence north 84° 13' 16" east, a distance of 163.79 feet to a point; thence north 52° 57' 26" east, a distance of 48.96 feet to a point; thence north 62° 35' 16" east, a distance of 75.31 feet to a point; thence north 42° 40' 14" east, a distance of 51.98 feet to a point; 200.00 feet west of the western right-of-way line of Garrett Road; thence in a southerly direction along a line 200.00 feet west of and parallel to the west property line of Garrett Road a distance of about 1550.00 to a point on the northern property line of Trotteridge Subdivision; thence north 83° 59' 22" west, a distance of 373.15 feet to a point; thence north 5° 36' 3" east, a distance of 301.58 feet to a point; thence south 60° 15' 20" west, a distance of 296.45 feet to a point; thence south 31° 33' 51" west, a distance of 58.09 feet to a point; thence south 63° 59' 31" west, a distance of 194.51 feet to a point; thence north 43° 4' 53" west, a distance of 233.92 feet to a point; thence north 77° 42' 27" west, a distance of 250.74 feet to a point; thence south 76° 10' 51" west, a distance of 250.74 feet to a point; thence south 50° 4' 19" west, a distance of 250.74 feet to a point; thence south 14° 14' 56" west, a distance of 203.04 feet to a point; thence south 25° 46' 18" east, a distance of 130.47 feet to a point; thence south 85° 59' 41" east, a distance of 200.00 feet to a point; thence south 4° 0' 19" west, a distance of 150.00 feet to a point; thence north 85° 59' 41" west, a distance of 35.00 feet to a point; thence south 4° 0' 19" west, a distance of 50.00 feet to a point; thence in a southeasterly direction along an arc to the right, said arc having a radius of 20.00 feet, a length of 31.42 feet to a point; thence south 4° 0' 19" west, a distance of 159.90 feet to a point; thence south 85° 59' 41" east, a distance of 1012.27 feet to a point; thence north 0° 0' 0", a distance of 358.01 feet to a point; thence south 80° 9' 12" east, a distance of 339.70 feet to a point on a line 200.00 feet west of the western right-of-way line of Garrett Road; thence in a southerly direction along a line 200.00 feet west of and parallel to the western property line of Garrett Road, a distance of about 3500.00 feet to a point of an intersection with a westerly projection of a line 200.00 feet south of and parallel to the east right-of-way line of N.C. 751; thence northeasterly along a line 200.00 feet east of the east right-of-way line of N.C. Highway 751, Hope Valley Road, a distance of approximately 1400.00 feet to a point on the southern property line of Hope Valley Realty and Construction Corp. property; thence S 40° 16' 50" E, a distance of 176.00 feet to a point; thence S 1° 14' 43" W, a distance of 81.40 feet to a point; thence S 68° 46' 26" W, a distance of 960.47 feet to a point; thence N 23° 43' 49" E, a distance of 143.28 feet to a point; thence S 86° 34' 47" E, a distance of 251.14 feet to a point; thence S 87° 6' 18"

E, a distance of 665.30 feet to a point; thence S 87° 6' 33" E, a distance of 216.62 feet to a point; thence S 5° 36' 30" W, a distance of 722.62 feet to a point; thence S 84° 50' 44" E, a distance of 653.44 feet to a point; thence N 0° 59' 47" W, a distance of 13.30 feet to a point; thence N 0° 56' 59" W, a distance of 121.68 feet to a point; thence S 84° 10' 28" E, a distance of 775.98 feet to a point; thence S 46° 4' 5" W, a distance of 248.80 feet to a point; thence S 51° 16' E, a distance of 172.48 feet to a point; thence in a northeasterly direction along an arc to the right, said arc having a radius of 239.90 feet, a length of 153.64 feet to a point; thence N 50° 22' 54" E, a distance of 330.27 feet to a point; thence N 46° 4' 5" E, a distance of 67.14 feet to a point; thence S 5° 26' 14" W, a distance of 632.82 feet to a point; thence S 85° 54' 10" E, a distance of 850.56 feet to a point; thence N 7° 14' 10" E, a distance of 616.12 feet to a point; thence S 84° 55' 14" E, a distance of 635.80 feet to a point; thence S 80° 48' 5" E, a distance of 373.44 feet to a point; thence S 80° 46' E, a distance of 583.64 feet to a point; thence N 5° 40' 16" E, a distance of 1171.03 feet to a point; thence S 81° 38' 50" W, a distance of 202.72 feet to a point; thence N 2° 11' 11" W, a distance of 60.0 feet to a point; thence N 18° 19' 1" W, a distance of 568.45 feet to a point; thence N 6° 9' 57" E, a distance of 2,394.62 feet to a point in the center line of the creek; thence in a westerly direction along the centerline of the creek a distance of 3,243.45 feet to a point; thence N 84° 7' 30" W, a distance of 180.88 feet to a point; thence N 86° 48' 14" W, a distance of 1,040.5 feet to a point; thence S 34° 53' 10" W, a distance of 118.31 feet to a point; thence S 89° 31' W, a distance of 459.75 feet to a point; thence S 35° 6' 37" W, a distance of 300.43 feet to a point; thence N 54° 51' 35" W, a distance of 299.60 feet to a point 200 feet east of the eastern right-of-way line of Hope Valley Road (751); thence in a northeasterly direction along a line 200 feet east of and parallel to the eastern right-of-way line of N. C. 751, a distance of about 1790 feet to a point on the southern property line of Southland Park; thence S 86° 57' 50" E, a distance of 84.83 feet to a point; thence S 23° 9' 22" W, a distance of 109.96 feet to a point; thence S 22° 53' 0" W, a distance of 110.38 feet to a point; thence S 85° 38' 49" E, a distance of 628.83 feet to a point; thence N 5° 8' 40" E, a distance of 650.93 feet to a point; thence N 84° 57' 10" W, a distance of 451.20 feet to a point 200 feet east of the eastern right-of-way line of 751; thence in a northeasterly direction with a line 200 feet east of and parallel to the eastern right-of-way line of N. C. 751, a distance of about 2,490 feet to a point on the south property line of (the crescent of Hope Valley) subdivision recorded in Plat Book 47, Page 63; thence easterly along the said south property line of (the crescent of Hope Valley) subdivision in a projection of said line a distance of approximately 1,030 feet to the center line of Third Fork Creek; thence northwardly along the center line of Third Fork Creek a distance of approximately 1,700 feet to a point; thence westwardly along the north property line of the said (crescent of Hope Valley) subdivision in an eastward projection of said line a distance of approximately 1,410 to a point; thence northwardly along a line 200 feet east of and parallel to the east right-of-way line of Hope Valley Road, a distance of approximately 4,850 feet to a point of intersection with a line 200 feet south of and parallel to the south line of Brighton Road; thence eastwardly along a line 200 feet south of the south right-of-way line of Brighton Road, a distance of approximately 30 feet to a point on the western property line of map showing property of Louis M. McKee and Wife, Ellen B. McKee, and D. Otis Pate and Wife, Martha McKee Pate; thence south

4° 49' 37" west, a distance of 784.96 feet to a point; thence south 45° 13' 12" west, a distance of 1698.61 feet to a point; thence south 32° 0' 5" east, a distance of 532.70 feet to a point; thence north 87° 32' 5" west, a distance of 118.60 feet to a point; thence south 21° 46' 33" east, a distance of 169.40 feet to a point; thence south 30° 40' 30" east, a distance of 123.50 feet to a point; thence south 51° 20' 30" east, a distance of 188.30 feet to a point; thence south 87° 9' 30" east, a distance of 1522.04 feet to a point at the center line of the creek; thence in a northeasterly direction along the center of the creek, a distance of 513.78 feet to a point; thence north 87° 3' 42" west, a distance of 471.72 feet to a point; thence north 5° 15' 0" east, a distance 656.90 feet to a point; thence eastwardly along the south property line of Lot 20, Block B, and Lot 20 Block A of W. R. Hall Subdivision, as recorded in Plat Book 35, Page 4, a distance of approximately 500.00 feet to a point; thence southwardly along the west property line of Lena E. Harris Subdivision, recorded in Plat Book 28, Page 99, a distance of approximately 540.00 feet to a point of intersection with the center line of Third Fork Creek; thence northwardly along the center line of Third Fork Creek, a distance of approximately 660.00 feet to the point of intersection with the east property line of said Lena E. Harris Subdivision; thence northwardly along the east property line in a projection thereof of Lena E. Harris Subdivision as recorded in Plat Book 28, Page 99, a distance of approximately 2100.00 feet to a point; thence south 86° 22' 49" east, a distance of 670.63 feet to a point; thence north 3° 26' 10" east, a distance of 850.13 feet to a point; thence north 3° 30' east, a distance of 199.83 feet to a point; thence north 85° 57' west, a distance of 132.62 feet to a point; thence north 2° 45' 4" east, a distance of 589.38 feet to a point; thence north 85° 23' 50" west, a distance of 1229.07 feet to a point; thence north 5° 25' 54" east, a distance of 121.13 feet to a point on a line 200.00 feet east of the east right-of-way line of N. C. 751; thence northwardly along a line 200.00 feet east of and parallel to the east right-of-way line of Hope Valley Road; a distance of approximately 340.00 feet to a point; thence eastwardly along a line 200.00 south of and parallel to the south right-of-way line of Archdale Drive, a distance of approximately 2550.00 feet to a point; thence southwardly and eastwardly along a line 200.00 feet west of and parallel to the west property line of Oakridge Boulevard and a projection of a line 200.00 feet south of and parallel to the south right-of-way of Willowdale Drive; a distance of approximately 2180.00 feet to a point; thence eastwardly along a line 200 feet south of and parallel to the south right-of-way line of Willowdale Drive and a westwardly projection thereof; a distance of approximately 1250.00 to a point on the west property line of Elliswood Subdivision, Section #2; thence south 8° 14' west, a distance of 133.50 feet to a point; thence south 86° 01' east, a distance of 692.62 feet to a point on a line 200.00 feet south of the southern right-of-way line of Willowdale Drive; thence in a southeasterly direction along a line 200.00 feet south of and parallel to the southern right-of-way line of Willowdale Drive; a distance of approximately 400.00 feet to a point; thence south 2° 38' 36" west, a distance of 582.82 feet to a point on the northern right-of-way line of Cook Road; thence in a easterly direction along an arc to the left, said arc having a radius of 408.60 feet, a length of 89.67 feet to a point; thence in an easterly direction along an arc to the left, said arc having a radius of 1040.77 feet, a length of 230.21 feet to a point; thence north 64° 18' 27" east, a distance of 16.27 feet to a point; thence south 26° 48' 27" east, across Cook Road, a distance of 260.00 feet to a point on a line

230.00 south of the center line of Cook Road; thence in an easterly direction along the said line parallel to and 230.00 feet south of the center line of Cook Road to the point of intersection with a line 230.00 feet west of and parallel to the center line of Cornwallis Road, a distance of about 1490.00 feet; thence in a southeasterly direction along the said line parallel to and 230.00 feet west of the center line of Cornwallis Road to the point of intersection with a line 230.00 south of and parallel to the center line of Buxton Drive, a distance of about 1130.00 feet; thence in an easterly direction along said line parallel to and 200.00 feet south of Buxton Drive to the point of intersection with a line parallel to and 230.00 feet south of Riddle Road, a distance of about 600.00 feet; thence in a northeasterly direction along the said line parallel to, and 230.00 feet south of the center line of Riddle Road to the point of intersection with the east right-of-way line of Norfolk and Southern Railroad, a distance of about 150.00 feet; thence eastwardly along a line 200.00 feet south of and parallel to the south right-of-way line of Riddle Road, a distance of approximately 3900.00 feet to a point; thence south 76° 19' west, a distance of 185.73 feet to a point on the eastern right-of-way line of N. C. 55; thence south 13° 41' east along said eastern right-of-way line of N. C. 55, a distance of 386.45 feet to a point; thence north 60° 16' east a distance of 367.37 feet to a point; thence south 75° 2' east, a distance of 337.76 feet to a point; thence north 5° 21' east, a distance of 283.03 feet to a point; thence south 89° 8' west, a distance of 125.00 feet to a point; thence north 5° 34' east, a distance of approximately 35.00 feet to a point on a line 200.00 feet south of the southern right-of-way line of Riddle Road; thence in an easterly direction along a line 200.00 feet south of and parallel to the southern right-of-way line of Riddle Road, a distance of approximately 2760.00 feet to a point; thence northwardly along a line 200.00 feet east of and parallel to the east right-of-way line of Chicago Street and a projection thereof, a distance of approximately 1790.00 feet to a point; thence eastwardly along the south property line of Max W. Bryant property in a projection thereof, a distance of approximately 930.00 feet to a point, on a western property line of Homeco, Inc.; thence south 35° 2' 48" east, a distance of 340.16 feet to a point; thence south 89° 22' 20" east, a distance of 850.56 feet to a point; thence S 89° 21' 17" E, a distance of 668.71 feet to a point on the western right-of-way line of the Durham Southern Railroad; thence in a northeasterly direction along an arc to the left, said arc having a radius of 2336.13 feet, a length of 306.84 feet to a point; thence N 37° 44' 48" E along said western right-of-way line of the Durham Southern Railroad, a distance of 290.31 feet to a point; thence N 88° 19' 14" W, a distance of 526.27 feet to a point; thence N 18° 45' 51" E, a distance of 93.94 feet to a point; thence N 73° 1' 18" W, a distance of 282.58 feet to a point; thence N 16° 46' 29" E, a distance of 850.26 feet to a point; thence N 77° 33' 41" W, a distance of 695.11 feet to a point; thence N 76° 27' 26" W, a distance of 808.81 feet to a point; thence N 30° 21' 01" E, a distance of 106.19 feet to a point; thence N 23° 30' 51" E, a distance of 293.99 feet to a point; thence N 37° 10' 13" E, a distance of 401.32 feet to a point; thence N 25° 38' E, a distance of 197.05 feet to a point; thence N 31° 7' 13" E, a distance of 438.29 feet to a point; thence N 16° 47' 03" E, a distance 695.23 feet to a point; thence N 2° 44' 25" E, a distance of 323.68 feet to a point; thence N 89° 00' 42" W, a distance of 263.01 to a point in the center of Rocky Creek; thence in a northeasterly direction along the center line of Rocky Creek a distance of about 160 feet to a point; thence N 89° 55' 22" E, a distance of 62.19 feet to a

point; thence N 55° 45' 31" E, a distance of 202.78 feet to a point; thence N 55° 53' 59" E, a distance of 120.63 feet to a point; thence N 83° 03' 08" E, a distance of 2236.28 feet to a point on a line parallel to and 50 feet north of the center line of the main track of the North Carolina Railroad Company; thence in a southerly and southeasterly direction a distance of approximately 5205 feet along the said line parallel to and at all points 50 feet north of the center line of the main track of the North Carolina Railroad Company to its intersection with the projection of a line 200 feet south of and parallel to Pleasant Drive; thence eastwardly along said line a distance of approximately 2,075 feet to its intersection with the projection of the line parallel to and 200 feet east of the east right-of-way line of Lynn Road; thence in a northerly direction along a line parallel to and 200 feet east of the east right-of-way line of Lynn Road, a distance of approximately 2240 feet to a point on the south property line of Columbia Corporation; thence with the Columbia Corporation property line the following courses and distances: S 18° 13' 49" E, a distance of 65.26 feet to a point; thence S 78° 34' 42" E, a distance of 555.60 feet; thence S 11° 25' 18" W, a distance of 100.00 feet to a point; thence S 78° 34' 42" E, a distance 921.70 feet to a point; thence S 5° 5' 13" W, a distance of 201.77 feet to a point; thence N 79° 28' 02" W, a distance of 340.00 feet to a point; thence S 1° 35' 20" W, a distance of 86.75 feet to a point; thence S 82° 04' E, a distance of 235.90 feet to a point; thence S 82° 22' 40" E, a distance of 91.70 feet to a point; thence S 81° 46' 35" E, a distance of 91.75 feet to a point; thence S 82° 15' 11" E, a distance of 801.00 feet to a point; thence N 83° 46' 20" E, a distance of 128.40 feet to a point; thence N 5° 56' 24" E, a distance of 201.74 feet to a point; thence S 85° 47' 15" E, a distance of 130.00 feet to a point; thence N 05° 56' 24" E, a distance of 568.70 feet to a point; thence N 83° 50' 00" W, a distance of 478.30 feet to a point; thence N 84° 00' 40" W, a distance of 675.20 feet to a point; thence N 05° 05' 13" E, a distance of 231.00 feet to a point; thence N 85° 33' 40" W, a distance of 330.00 feet to a point; thence N 85° 17' 03" W, a distance of 437.80 feet to a point; thence N 03° 56' 44" E, a distance of 487.00 feet to a point; thence N 85° 70' 23" W, a distance of 528.52 feet to a point on a line 200 feet east of the eastern right of way line of Lynn Road; thence in a northerly direction on a line 200 feet east of and parallel to Lynn Road a distance of approximately 6,030 feet to the intersection of a line 200 feet south of the south right-of-way line of North Carolina Highway No. 98; thence North Carolina Highway No. 98, a distance of approximately 1,330 feet to a point; thence in a northerly direction along a line perpendicular to North Carolina Highway No. 98, a distance of approximately 460 feet to a point; thence in a westerly direction along a line 200 feet north of and parallel to the northern right-of-way line of North Carolina Highway No. 98, a distance of approximately 390 feet to a point; thence in a northwardly direction along a line parallel to and 200 feet east of the east right-of-way line of Chandler Road, a distance of approximately 1300 feet to a point; thence south 85° 0' east, a distance of 164.66 feet to a point; thence north 75° 58' 51" east, a distance of 182.65 feet to a point; thence south 62° 23' 48" east, a distance of 262.12 feet to a point; thence south 26° 31' 32" west, a distance of 27.64 feet to a point; thence south 85° 24' 35" east, a distance of 692.48 feet to a point; thence north 6° 55' 43" east, a distance of 649.91 feet to a point; thence south 80° 22' east, a distance of 547.02 feet to a point; thence south 80° 17' east, a distance of 1604.00 feet to a point; thence north 10° 23' east, a distance of 850.7 feet to a

point; thence north 10° 8' east, a distance of 1487.8 feet to a point; thence north 82° 46' west, a distance of 1488.05 feet to a point; thence in a southerly direction along an arc to the right, said arc having a radius of 332.2 feet, a length of 151.14 feet to a point; thence north 70° 42' west, a distance of 175.00 feet to a point; thence north 19° 18' east, a distance of 116.00 feet to a point; thence north 82° 46' west, a distance of 436.3 feet to a point; thence north 6° 25' east, a distance of 663.9 feet to a point; thence north 81° 25' west, a distance of 1378.1 feet to a point; thence south 5° 32' west, a distance of 697.00 feet to a point; thence south 82° 45' east, a distance of 461.4 feet to a point; thence south 7° 40' west, a distance of 1162.98 feet to a point on a line 200.00 feet north of the northern right-of-way line of Chandler Road; thence in a westerly direction along a line 200.00 feet north of and parallel to the northern right-of-way line of Chandler Road, a distance of approximately 1130.00 feet to a point; thence westwardly along a line 200.00 feet north of and parallel to the north property line of Ross Road, a distance of approximately 860.00 feet to a point; thence northwardly along a line 200.00 feet east of and parallel to the east property line of Fernando Street, a distance of approximately 1460.00 to a point; thence westwardly along a line 200.00 feet north of and parallel to the north right-of-way line of Independence Avenue, a distance of approximately 1540.00 feet to a point; thence northwardly along a line 200.00 feet east of and parallel to the east property line of Center Avenue, a distance of approximately 1030 feet to a point; thence westwardly a distance of approximately 980.00 feet along the northern property line of the subdivision of land known as Resubdivision of Lots 210 and 221, Joyland Heights, recorded in Plat Book 20, page 13; thence in a southerly direction along the west line of said subdivision, Resubdivision of Lots 210 and 221, Joyland Heights, a distance of 51 feet to a point; thence westwardly along the northern property line of a subdivision of lands known as Resubdivision of Lots 210 and 221, Joyland Heights, as recorded in Plat Book 20, Page 13, in projection of said line, a distance of approximately 220 feet to its intersection with a line 20 feet east of and parallel to the center line of the Southern Railway, Keysville Branch Track, being also the easternmost track at this point; thence southwardly along said line 20 feet east of and parallel at all points to the center line of Southern Railway Company, Keysville Branch Railroad Track, a distance of approximately 3050 feet to its intersection with a line 200 feet north of and parallel to Ross Road, if projected; thence westwardly along a line 200 feet north of and parallel to the north right-of-way line of Ross Road in a projection thereof, a distance of approximately 1920 feet to its intersection with the eastern right-of-way line of U.S. 70; thence running in a northerly direction along said U.S. 70, right-of-way line, approximately 1530 feet to a point on the southern property line of property of Fellowship Freewill Baptist Church; thence south 85° 42' east, a distance of 560.23 feet to a point; thence north 11° 42' east, a distance of 109.99 feet to a point; thence north 6° 19' east, a distance of 224.70 feet to a point; thence north 8° 44' east, a distance of 102.00 feet to a point; thence north 9° 5' east, a distance of 382.49 feet to a point; thence north 10° 35' east, a distance of 108.30 feet to a point; thence north 84° 0' west, a distance of 510.57 feet to a point on the eastern right-of-way line of U.S. 70; thence in a northerly direction along said U.S. 70 right-of-way line, approximately 1100 feet to a point, 200 feet from the south right-of-way line of Cheek Road; thence eastward along a line parallel to and 200 feet from the south right-of-way line of Cheek Road, a distance of approximately 790 feet to a

point; thence northwardly along a line in projection thereof located 200 feet east of the eastern right-of-way line of Midland Terrace, a distance of approximately 6350 feet to the eastern right-of-way line of Camden Avenue; thence north 47° 25' east along the eastern right-of-way line of Camden Avenue, a distance of 909.10 feet to a point on the south property line of City of Durham Tract No. 443; thence south 34° 16' east along said southern property line of City of Durham Tract No. 443, a distance of 278.56 feet to a point; thence south 77° 32' east, a distance of 471.91 feet to a point; thence north 20° 33' 0" east, a distance of 856.00 feet to a point; thence north 31° 27' west, a distance of 280.89 feet to a point on the eastern right-of-way line of Camden Avenue; thence north 47° 25' east, a distance of 1073.43 feet to a point, in the center of Goose Creek; thence in a westerly direction along the center line of Goose Creek; a distance of 1633.00 feet to a point; thence north 41° 20' 46" west, a distance of 209.31 feet to a point; thence north 72° 39' 46" west, a distance of 177.04 feet to a point in the center line of old run of Ellerbee Creek; thence in a westerly direction along the old run of Ellerbee Creek, a distance of 1688.01 feet to a point on a line 200 feet east of the eastern right-of-way line of Midland Terrace; thence in a northerly direction along said line 200 feet east of and parallel to the eastern right-of-way line of Midland Terrace, a distance of approximately 750 feet to its intersection with a line 200 feet east of and parallel to the east right-of-way line of Dearborn Drive; thence northwardly along said line 200 feet east of Dearborn Drive, a distance of approximately 1820 feet to its intersection with a line 200 feet south of south right-of-way line of Maplewood Drive; thence eastwardly along a line 200 feet from and parallel to Maplewood Drive as it loops back into Dearborn Drive, a distance of approximately 2430 feet to a line, 200 feet east of and parallel with Dearborn Drive; thence northwardly along a line 200 feet east of and parallel to the east right-of-way line of Dearborn Drive, a distance of approximately 2740 feet to the east right-of-way line of the Norfolk and Western Railroad; thence northwardly along the east right-of-way line of the Norfolk and Western Railway, a distance of approximately 1760 feet to the intersection of a line projected which is located 200 feet north of and parallel to the north right-of-way line of Arlene Street; thence westwardly along said line, a distance of approximately 1360 feet to the intersection of a line projected which is 200 feet west of the west right-of-way line of Usher Street and parallel thereto; thence southwardly along a line 200 feet west of and parallel to the west right-of-way line of Usher Street, a distance of 630 feet to a point, said point being located 200 feet north of the north right-of-way line of Craven Street; thence westwardly along said line 200 feet north of and parallel to the north right-of-way line of Craven Street, a distance of approximately 650 feet to a point; thence northwardly along a line 200 feet east of the east right-of-way line of Old Oxford Highway, a distance of approximately 550 feet to a point; thence westwardly along a line 200 feet north of and parallel to the north right-of-way line of Arlene Street as projected, a distance of approximately 580 feet to a point; thence southwardly along a line 200 feet west of and parallel to the west right-of-way line of Old Oxford Highway, a distance of approximately 2200 feet to a point on the western property line of Wiggins Street; thence north 3° 22' east along said western property line of Wiggins Street, a distance of about 860 feet to a stake; thence south 63° 56' west, a distance of 364.72 feet to a stake; thence south 68° 19' west, a distance of 249.52 feet to a stake; thence south 58°

33' west, a distance of 240.50 feet to a stake; thence south 82° 42' west, a distance of 234.30 feet to a stake on the eastern property line of Duke Lane; thence along the eastern property line of Duke Lane, the following courses and distances: south 7° 6' east, a distance of 446.19 feet to a stake; thence in a southerly direction along an arc to the right, said arc having a radius of 254.61 feet, a distance of 39.03 feet to a stake; thence south 1° 42' west, a distance of 243.89 feet to a point on the northwest corner of Eno Primitive Baptist Church; thence south 85° 47' east along the northern property line of said church, a distance of 346.63 feet to a stake; thence south 44° 38' east, a distance of about 107 feet to a point on a line 200 feet north of the right-of-way of Old Oxford Highway; thence in a southwesterly direction along said line parallel to and 200 feet north of the northern right-of-way line of Old Oxford Highway about 2500 feet to a point on a line 230 feet east of the center line of Roxboro Road; thence in a northerly direction along said line parallel to and 230 feet east of the center line of Roxboro Road, a distance of about 1400 feet to a point; thence north 9° 49' east a distance of 530 feet to a point; thence north 81° 0' west a distance of 99.88 feet to a point; thence north 9° 0' east. a distance of 98.70 feet to a point; thence north 0° 20' east, a distance of 109.55 feet to a point; thence north 81° 00' west, a distance of 399.75 feet to a point; thence south 42° 56' west, a distance of 242.38 feet to a point on a line 230 feet from and parallel to the center line of Roxboro Road; thence in a northerly direction along said line parallel to and 230 feet east of the center line of Roxboro Road, a distance of about 3970.00 feet to a point; thence N 82° 49' E, a distance of 281.22 feet to a point; thence N 06° 51' W, a distance of 223.17 feet to a point on the southern property line of Pacific Avenue; thence N 82° 38' E along the southern property line of Pacific Avenue, a distance of 184.50 feet to a point; thence S 6° 51'E, a distance of 223.27 feet to a point; thence N 82° 49' E, a distance of 424.12 feet to a point; thence N 05° 00' E, a distance of 1392.86 feet to a point; thence N 84° 52' W, a distance of 918.54 feet to a point; thence N 2° 24' 30" W, a distance 338.00 feet to a point; thence N 84° 11' W, a distance about 269 feet to a point on a line 200 feet east of the eastern right-of-way line of Denfield Street; thence in a northerly direction with said line 200' east of and parallel to the eastern right-of-way line of Denfield Street, a distance of about 6400 feet to a point on the southern property line of lot found in Deed Book 300, Page 694; thence in a westerly direction along said lot, a distance of about 202 feet to the eastern property line of Denfield Street; thence in a southward direction along the eastern right-of-way line of Denfield Street, a distance of about 17.6 feet to a point; thence in a westerly direction across Denfield Street, a distance of 123.33 feet to a point at the southwest corner of said lot; thence in a northerly direction along the western property line of said lot, and the western property line of Lot No. 3 of Eno Farms, Incorporated, recorded in Plat Book 64, Page 44, a distance of about 2300 feet to the center of Eno River; thence in a westerly direction up the center of the Eno River, a distance of about 2720 feet to a point on the southeast property corner of Lot No. 14 of the Ruffin land, recorded in Plat Book 6, Page 71, and running in a northerly direction along the eastern property line of said lot, a distance of about 1220 feet to a point on a line 200 feet north of the northern right-of-way line of Infinity Road; thence in a westernly direction with said line 200 feet north and parallel to the northern right-of-way line of Infinity Road, a distance of about 3120 feet to a point on a line 200 feet west of the western right-of-way line of Roxboro Road, U.S. 501; thence in a southerly

direction with said line 200 feet west of and parallel to the western right-of-way line of Roxboro Road (U.S. 501), a distance of about 4700 feet to a point on the northern property line of the Argonne Hills Subdivision, recorded in Plat Book 36, Page 45; thence in a westerly direction along said northern property line of Argonne Hills Subdivision, a distance of about 820 feet to a point on a creek; thence in a southwesterly direction along the creek line, which is also the property line of aforesaid Argonne Hills Subdivision, a distance of approximately 670 feet to a point; thence westerly along the north line of aforesaid Argonne Hills Subdivision, a distance of approximately 680 feet to a point, being also the northwest corner of Argonne Hills Subdivision; thence southwardly along the western property line and extension thereof of Argonne Hills Subdivision, a distance of approximately 2100 feet to its intersection with the north property line of a subdivision of land known as Property of P. M. Bussell, as shown in Plat Book 18, Page 97; thence westerly along the said northern property line, a distance of approximately 2290 feet to its intersection with the line 200 feet north of and parallel to the north right-of-way line of Horton Road; thence westerly a distance of approximately 2895 feet along a line 200 feet north of and parallel to the north right-of-way line of Horton Road to a point 200 feet west of Guess Road; thence southwardly along a line 200 feet west of and parallel to the west right-of-way line of Guess Road, a distance of approximately 260 feet to a point on the northern property line of a map showing property of Lula B. Proctor; thence north 84° 54' 30" W, a distance of 580.54 feet to a point; thence N 28° 20' W, a distance of 935.85 feet to a point on the center line of Mill Creek; thence in a southwesterly direction along the center line of Mill Creek, a distance of about 1707 feet to a point on the eastern right-of-way line of Hillandale Road; thence S 28° 38' E, a distance of 434.60 feet to a point; thence S 71° 10' E, a distance of 1428.14 feet to a point on a line 200 feet west of the western right-of-way line of Guess Road; thence in a southerly direction with said line 200' west of and parallel to the western right-of-way line of Guess Road, a distance of about 2850 feet to a point on the northern property line of a map showing property of Hazard Cannon; thence N 88° 55' 6" W, a distance of 138.28 feet to a point; thence N 1° 21' 42" E, a distance of 124.97 feet to a point; thence N 1° 26' 23" E, a distance of 174.72 feet to a point; thence N 1° 23' 48" E, a distance of 200.17 feet to a point; thence N 1° 30' 39"E, a distance of 249.92 feet to a point; thence N 5° 23' 55" E, a distance of 406.33 feet to a point; thence N 44° 39' 6" W, a distance 247.71 feet to a point; thence N 19° 28' 32" W, a distance of 296.99 feet to a point; thence N 42° 57' 7" W, a distance of 130.98 feet to a point on the southern property line of Crystal Lake Road; thence in a southwesterly direction along the center line of a branch, a distance of about 2506.5 feet to a point on the eastern right-of-way line of Hillandale Road; thence S 15° 19' 2" E a distance of 66.39 feet to a point; thence in a westerly direction across Hillandale Road to a point 200 feet west of the western right-of-way line of Hillandale Road, a distance of about 250 feet; thence in a southerly direction along said line 200 feet west of and parallel to the western right-of-way line of Hillandale Road, a distance of approximately 2390 feet to a point located 200 feet north of Carver Street; thence along a line 200 feet north of and parallel to the north right-of-way line of Carver Street, a distance of approximately 550 feet to its intersection with the projection of a line being the west property line of Hillandale School; thence S 1° 50' W, a distance of 205.52 feet to a point on the

northern right-of-way line of Carver Street; thence in a westerly direction along the northern right-of-way line of Carver Street, a distance of 4,485.17 feet to a point; thence S 67° 33' 38" W, a distance of 456.10 to a point; thence S 00° 29' 13" W, a distance of 939.66 feet to a point; thence S 68° 38' 09" W, a distance of 492.02 feet to a point on the western right-of-way line of Cole Mill Road; thence in a southerly direction along said right-of-way line of Cole Mill Road, a distance of about 4461 feet to a point, 200 feet north of the northern right-of-way line of U.S. Highway I-85; thence northwesterly along a line 200 feet north of and parallel to the north right-of-way line of U.S. I-85, a distance of approximately 1227 feet to a point; thence in a southwesterly direction perpendicular to the west bound lane of U.S. Highway I-85, a distance of approximately 969 feet to a point on the west right-of-way line of the Southern Railway; thence southerly along and with the west right-of-way line of the Southern Railway, a distance of approximately 660 feet to a point on a projected line, which is 200 feet west of the west property line of Morreene Road; thence southerly along a line which is 200 feet west of the west property line of Morreene Road, a distance of approximately 2371 feet to a point; thence N 89° 31' 22" W, a distance of 1149.20 feet to a point; thence S 8° 48' 00" W, a distance of 1124.85 feet to a point on the northern property line of American Village; thence N 68° 00' W, a distance of 788.52 feet to a point; thence in a westerly direction along an arc to the left, said arc having a radius of 1074.08 feet, a length of 874.20 feet to a point; thence S 65° 22' W, a distance of 437.00 feet to a point; thence S 24° 38' E, a distance of 60.00 feet to a point; thence S 30° 40' 26" W, a distance of 118.65 feet to a point; thence S 7° 33' 25" E, a distance of 69.27 feet to a point; thence S 39° 17' 11" E, a distance of 71.97 feet to a point; thence S 40° 24' 14" E, a distance of 529.81 feet to a point; thence S 7° 13' 47" E, a distance of 116.03 feet to a point; thence S 19° 5' 34" E, a distance of 256.16 feet to a point; thence S 4° 14' 17" E, a distance of 1,031.22 feet to a point; thence S 89° 4' 44" E, a distance of 491.65 feet to a point; thence N 25° 56' 59" E, a distance of 1,382.77 feet to a point; thence N 27° 8' 27" E, a distance of 353.35 feet to a point; thence S 72° 13' 07" E, a distance of 1323.30 feet to a point; thence S 38° 51' 20" E, a distance of 1,360.07 feet to a point on the western right-of-way line of U.S. 15-501; thence in a southerly direction along said western right-of-way line of U.S. 15-501, a distance of approximately 10,000 feet to a point of intersection on said western right-of-way line of U.S. 15-501, a line 200 feet south of and parallel to the southern property line of Cornwallis Road, said point being the place and point of beginning.

Whenever the corporate boundaries of the City are altered in accordance with General or Special Law, such changes in the corporate boundaries shall be indicated by appropriate additions to the official map or description of the boundaries of the City, to be maintained in the office of the City Clerk.

"CHAPTER II.

"ELECTIONS.

"Sec. 3. *Conduct of Elections.*—The general municipal elections shall be conducted in the manner prescribed by the uniform municipal election laws of North Carolina.

The non-partisan primary and election method shall be used to nominate candidates and determine the results of the City's elections.

"Sec. 4. *Election Wards.*—The territory located within the corporate limits of the City shall continue to be divided into six numbered election wards. A

written description or map showing the current boundaries of the respective six election wards shall be maintained in the office of the City Clerk, and shall be available for public inspection.

Such ward boundaries may be amended periodically pursuant to the provisions of General Law.

Whenever areas are hereafter annexed and made a part of the City, the City Council shall by ordinance redefine and rearrange the six election wards so as to include such annexed areas. Such ordinance shall be adopted at least seven days prior to the opening of the registration books for the municipal election next succeeding the date of any annexation and shall provide for six election wards of approximately equal population. In redefining and rearranging the election ward lines, the City Council shall follow as nearly as practical, existing ward lines.

"Sec. 5. *Elective Offices.*—At the regular municipal elections to be held in 1975, and on every fourth year thereafter, the voters of the City shall elect a mayor and six council members. Three council members shall be elected at large from the residents of the City, and one council member shall be elected from each of Wards 2, 4, and 6, respectively.

At the regular municipal elections to be held in 1977, and on every fourth year thereafter, the voters of the City shall elect a mayor and six council members. Three council members shall be elected at large from the residents of the City, and one council member shall be elected from each of Wards 1, 3, and 5, respectively.

Candidates for election to ward seats on the Council shall reside in and represent their respective wards, but all candidates for City Council and the Mayor shall be nominated and elected by all the voters of the City.

The Mayor shall serve for a term of two years, and all Council members shall serve for a term of four years.

"CHAPTER III.

"MAYOR AND COUNCIL.

"Sec. 6. *City Council.*—The Council members and Mayor, when elected and duly qualified, shall constitute a board to be known and designated as the City Council.

"Sec. 7. *Oaths of Office.*—The Mayor and each Council member, before entering upon the duties of the office to which they have been elected, shall take before some officer authorized to administer oaths an oath that they will fairly and impartially perform the duties of their office. The Mayor and Council members shall hold their respective offices until their respective successors have been duly qualified.

"Sec. 8. *Powers of the City Council.*—The City Council shall have full power and authority, except as otherwise provided for in this Charter, to exercise all of the powers conferred upon and delegated to the City of Durham by this Charter and by the laws of North Carolina. The City Council shall have power to make such ordinances, rules and regulations as it may deem necessary for the proper government of the City and to promote and safeguard the health, morals, safety and general welfare and convenience of the public. The City Council may provide for the proper enforcement of such ordinances, in such manner as it may think best, by fine, imprisonment or otherwise. The City Council may provide for the organization of the offices, departments and divisions of City government, not inconsistent with this Charter.

"Sec. 9. *Powers and Duties of the Mayor.*—The power and duties of the Mayor shall be such as are conferred upon him by this act, together with such others as are conferred by the City Council in pursuance of the provisions of this act and no other.

He shall preside at all meetings of the City Council and shall vote upon all questions unless excused as provided in Section 11(3) of this Charter, but shall have no additional vote in case of a tie. He shall appoint all standing committees and special committees of the City Council, unless the City Council shall vote to elect any or all of such standing or special committees.

He shall be recognized as the official head of the City, and shall be so considered by the public for all ceremonial purposes. He shall have power to administer oaths and take affidavits. Such functions not enumerated in this Charter as are conferred upon the Mayor by the General Laws of the State shall be exercised by the City Manager, unless the City Council designates some other person to exercise the same.

"Sec. 10. *Mayor Pro Tempore.*—During the disability of the Mayor, or his absence from the City, the functions of his office shall devolve upon some member of the City Council designated by that body as Mayor Pro Tempore at its first meeting after each general municipal election. The Mayor Pro Tempore shall preside over meetings of the City Council in the absence of the Mayor.

"Sec. 11. *Meetings of the City Council.*—(1) Regular meetings of the City Council shall be held at least twice but not more than four times each month at such times as may be designated by ordinance of the City Council.

(2) The Mayor, any four members of the City Council, or the City Manager, hereinafter provided for, may call special meetings of the council upon at least six (6) hours notice to each member. Notice may be given to a member by direct telephone communication with such member or by direct personal conversation with such member or by written notice to any member not otherwise notified by serving such written notice personally upon such member or by leaving such written notice at such member's residence or business. Written notice as provided herein may be served by any person or persons designated by the City Manager. A special meeting may be held at any time without notice provided that all of the members of the Council attend.

(3) Meetings of the City Council shall be public, when required by G.S. Chapter 143, Article 33B, and any citizen shall have access to the records or minutes thereof at all reasonable times, unless otherwise provided by law. A majority of the members of the City Council shall constitute a quorum for the transaction of business. The ayes and noes shall be taken upon the passage of all ordinances, resolutions or actions having the effect of an ordinance or resolution and entered by the Clerk upon the journal of the proceedings of the Council. The City Council may provide for the taking of aye and nay votes by means of electronic or mechanical tabulation visible to persons attending the meeting. Every ordinance, resolution or action having the effect of an ordinance or resolution shall require on its passage seven affirmative votes, provided, however, any provision of General Law requiring a different vote than prescribed herein shall control except the provisions of G.S. 160A-75 which shall not apply to the City of Durham. An ordinance is effective upon passage or at such subsequent time as the City Council may prescribe. No member shall be excused from voting, except on matters involving consideration of his own official conduct, or where his financial interests are involved. In all other cases, a

failure to vote by a member who is physically present in the Council Chamber, or who has withdrawn without being excused by a majority vote of the remaining members present, shall be recorded as an affirmative vote. The question of the compensation and allowances of members of the Council is not a matter involving a member's own financial interest or official conduct.

"Sec. 12. *Appointive Powers Continued.*—The City Council shall continue to have such power and authority to appoint officers and members of boards and commissions, such as members of the City Board of Education, as was heretofore delegated to the Board of Aldermen under prior laws applicable to the City.

"Sec. 13. *Refusal to Serve; Vacancies.*—The City Council shall be the judge of the election and qualifications of its members.

If any person chosen Mayor shall refuse to be qualified, or if there is a vacancy in the office after election and qualification, the City Council shall choose some qualified person as Mayor for the term, or for the unexpired portion of the term as the case may be. Similarly, the City Council shall choose other eligible persons to fill the place of such Council member or members as shall refuse to serve, and fill vacancies which may occur. If the vacancy to be filled occurs in a seat occupied by a Council member nominated from a ward, then such person chosen to fill such vacancy shall reside in the ward from which the Council member whose place is to be filled was nominated.

"Sec. 14. *Double Office Holding.*—No person elected to the City Council, whether he qualify or not, shall, during the term for which he was elected, be elected or appointed to any other position, or office of trust or profit, under the city government. However, when a vacancy exists or shall occur in the office of Mayor, a Council member shall not be debarred from election as Mayor for the existing term or unexpired part of the term.

"Sec. 15. *Removal of Elective Officers from Office.*—(1) Absence from five consecutive regular meetings shall operate to vacate the seat of a Council member, unless the absence is excused by the Council by resolution setting forth the reason therefor, and such resolution shall be entered upon the minutes.

(2) The City Council by a vote of seven of its members, in meeting assembled, shall have power to remove from office the Mayor or any Council member for misfeasance, malfeasance, corruption, neglect of duty or other misconduct in office, but the person to be proceeded against shall have at least ten days' notice in writing of the motion to remove him, accompanied by a copy of the charges alleged as the grounds for his proposed removal. He shall have the right to be heard in person or by counsel in his defense. In case of the removal of the Mayor, or any Council member, the vacancy shall be filled by the City Council or the remaining members thereof.

(3) The Mayor or any member of the City Council may also be removed from office in the following manner:

(a) Any elector of the City may make and file with the City Clerk an affidavit containing the name of the City officer whose removal is sought and a statement of the grounds alleged for his removal. The Clerk shall thereupon deliver to the elector making such affidavit copies of petition blanks for demanding such a removal, printed forms of which he shall keep on hand. Such blanks shall be issued by the Clerk with his signature thereto attached and shall be dated and addressed to the council, indicate the person to whom issued, and state the name of the officer whose removal is sought. A copy of the petition shall be entered in a record book kept for that purpose in the office of the Clerk. A recall petition to

be effective must be returned and filed with the Clerk within 30 days after the filing of the affidavit, and to be sufficient must bear the signature of at least twenty-five per centum (25%) of the registered voters of the City as shown by the registration sheets of the last preceding general municipal election. A recall petition, if insufficient as originally filed, may be amended as hereinafter provided.

(b) If a recall petition, or amended petition shall be certified by the Clerk to be sufficient he shall at once submit it to the council with his certificate to that effect and shall notify the officer whose removal is sought of such action. If the officer whose removal is sought does not resign within five days after such notice the Council shall thereupon order and fix a day for holding a recall election. Any such election shall be held not less than 40 nor more than 60 days after the petition has been certified to the Council, and it may be held at the same time as any other general or special election within such period; but if no other election is to be held within such period the Council shall call a special recall election to be held within the time aforesaid.

(c) The question of recalling any number of officers may be submitted at the same election, but as to each such officer a separate petition shall be filed and there shall be an entirely separate ballot.

(d) The ballots used in a recall election shall submit the following propositions in the order indicated:

☐ For the recall of (name of officer).

☐ Against the recall of (name of officer).

Except that the spaces left for the name and date shall be filled by the correct names and date, the ballots used in a recall election shall be in form substantially as follows:

'RECALL ELECTION

City of Durham

_____(Month and day of month)_____19__

For the recall of _____

Against the recall of _____.'

(e) If a majority of the votes cast on the question of recalling an officer be against his recall he shall continue in office for the remainder of the unexpired term, but subject to the recall as before. If a majority of such votes be for the recall of the officer designated on the ballot, he shall, regardless of any defects in the recall petition, be deemed removed from office.

(f) If an officer in regard to whom a sufficient recall petition is submitted to the Council shall resign before the election, or be removed as a result thereof, the vacancy so caused shall be filled in the manner provided by this charter for filling vacancies in such office, except as provided in Section 15(3)(h). But an officer removed by the voters as the result of a recall election, or resigning after a sufficient petition for his recall has been submitted to the Council, shall not be reelected to fill the vacancy caused by his own removal or resignation.

(g) No recall petition shall be filed against an officer within three months after he takes office, nor, in case of an officer subjected to a recall election and not removed thereby, until at least six months after that election.

(h) If the recall of a majority of the members of the City Council, including the Mayor as one of the members, shall be effected at a single recall election, the successors of the officers recalled shall be elected by the registered, qualified voters of the City at a special municipal election, and said successors shall serve

for the unexpired part of the terms of the officers recalled. The members of the City Council who have not been recalled are empowered to call said special election and to make all necessary provisions regarding the same in conformity to the Constitution and general laws of North Carolina. If the recall of all of the members of the City Council, including the Mayor, shall be effected at a single recall election, they shall be continued in office for the purpose, and only for the purpose, of calling a special municipal election for the election of their successors as above provided, and of ascertaining and declaring the result thereof.

"CHAPTER IV.

"ORGANIZATION AND ADMINISTRATION.

"ARTICLE 1. Appointive Offices.

"Sec. 16. *City Manager.*—A City Manager shall be chosen to be the administrative head of the municipal government. He shall be chosen by the Council without regard to his political beliefs, and solely upon the basis of his training, and executive and administrative qualifications. The choice shall not be limited to inhabitants of the City or State. The City Manager shall receive such compensation as shall be provided by the Council by ordinance. He shall give such bond as may be required by the City Council. He shall be appointed for an indefinite period, and shall serve at the will of the Council; provided, however, that he may not be removed within 12 months from the date on which he assumed his duties, except for incompetence, malfeasance, misfeasance, or neglect of duty. In case of his removal within this period, he may demand written charges and a public hearing thereon before the Council prior to the date on which his final removal shall take effect; but the decision and action of the Council on such hearing shall be final, and pending such hearing the Council may suspend him from duty. During the absence or disability of the City Manager, or while the office is not filled, the Council shall designate some properly qualified person to perform his duties.

"Sec. 17. *Powers and Duties of the City Manager.*—The City Manager shall be responsible to the City Council for the efficient administration of all the affairs of the City under his direction and control. It shall be his duty to attend all meetings of the City Council, with the right to take part in the discussion, but without a vote. He shall be entitled to notice of all special meetings. He shall recommend to the City Council from time to time such measures as he shall deem necessary, and shall furnish the City Council with necessary information respecting any of the departments of the City under his direction and control. The City Manager shall not be personally interested in any contract in which the City is a party for supplying the City materials of any kind.

The City Manager shall have power, and it shall be his duty, to see that the laws and ordinances of the City are enforced.

He shall have power and authority to revoke licenses, pending action by the City Council.

Except as otherwise provided in this Charter, the City Manager shall have power to appoint and remove all heads of departments and all subordinate officers and employees of the City. He shall, except when clearly inconsistent with the provisions of this Charter, exercise supervision and control over all departments and divisions created herein, or that hereafter may be created by the City Council. He shall see that all terms and conditions imposed in favor of the City or its inhabitants in any public utility franchise are faithfully kept and performed, and upon knowledge of any violation thereof, he shall call the

attention of the City Council and the City Attorney to the same. He shall make and execute all contracts on behalf of the City in such manner as is authorized or provided by resolutions or ordinances passed by the City Council. He shall prepare and submit to the City Council a proposed annual budget, after receiving estimates made by the heads or directors of departments or by any board officer, or commissioner not within a department. He shall keep the City Council at all times advised as to the financial needs and condition of the City. He shall from time to time make oral and written reports to the City Council of the condition and efficiency of the various departments of the City government under his direction and control. The Council may in its discretion cause such written reports to be published for the information of citizens. The City Manager shall perform such other duties as may be prescribed by this Charter, or be required of him by ordinance or resolution of the City Council.

The City Manager shall not engage in political campaigns for elective office, nor attempt to influence the result of such campaigns, except by exercising his right to vote. Improper campaign activity as described herein by the City Manager shall be a cause for his immediate suspension or removal from office.

The City Council may delegate authority to the City Manager to purchase real property or interest in real property, provided:

(1) The purchase price of such real property or interest in real property shall not exceed one thousand dollars ($1,000); and

(2) The money for the purchase of such real property or interest in real property shall be available in the then current budget; and

(3) The City Manager, within forty-five (45) days following such purchase, shall submit to the City Council a written report setting forth the names of the persons from whom such property or property interest is purchased, a general description of the property or interest in property acquired, the purchase price paid therefor, and the intended use of such property or interest in property.

The City Council may authorize the City Manager to make, approve, award and execute any contract for the purchase of apparatus, supplies, materials or equipment on behalf of the City provided:

(1) The City Council shall have approved a sufficient appropriation therefor in the annual budget for the current fiscal year;

(2) Before any such contract is awarded, the City Manager shall comply with all applicable provisions of Article 8 of Chapter 143 of the North Carolina General Statutes; and

(3) The contract awarded shall not exceed ten thousand dollars ($10,000).

(4) The City Manager shall, within 45 days of the award of such contract, report such award to the City Council.

"Sec. 18. *Relations Between the City Council and the City Manager.*—Except for the purpose of inquiry, the Council and its members shall deal with the administrative service of the City solely through the City Manager hereinafter provided for, unless otherwise provided in this Charter. No member of the Council shall give orders to any of the subordinates of the City Manager either publicly or privately. Where this Charter gives to the City Manager the power to appoint or to employ persons in the administrative service of the City, neither the Council nor any of its members shall dictate the appointment or employment of any such person or persons, but the City Manager shall be left

free to exercise his own judgment in appointing or employing such person or persons.

"Sec. 19. *Investigations.*—The Council and the City Manager, or either of them, shall have power to make investigations as to City affairs and for that purpose to subpoena witnesses, administer oaths, and compel the production of books and papers.

Any person refusing or failing to attend, or to testify, or to produce such books and papers, may by summons issued by such Council or City Manager be summoned before the General Court of Justice by the Council or City Manager making such investigation, and, upon failure to give satisfactory explanation of such failure or refusal, he shall be guilty of a misdemeanor and may be fined a sum not exceeding one hundred dollars ($100.00), or imprisoned for a period not exceeding 30 days. Any person who shall give false testimony under oath at any such investigation shall be liable to prosecution for perjury.

"Sec. 20. *City Clerk.*—The City Council shall appoint a Clerk to be known as the City Clerk, who shall hold office at the pleasure of the City Council. He shall keep the records and minutes of the City Council, and perform such other duties as may be prescribed by this Charter or by the City Council.

The City Council is authorized and empowered to appoint or designate a person as acting City Clerk to perform the duties of the City Clerk during his or her absence or disability, and in the performance of such duties the acting City Clerk shall possess all of the legal authority and power of the City Clerk.

"Sec. 21. *City Attorney.*—The City Council shall appoint an attorney who shall be known as the City Attorney, who shall hold office at the pleasure of the City Council. The City Attorney shall be legal advisor to, and attorney and counsel for the City. He shall act as counsel for all officers of the City in matters relating to their official duties. The City Attorney shall appoint and suspend or remove all subordinate attorneys and other employees of the City Attorney's office.

In addition to the duties enumerated, he shall perform such other duties as may be required of him by the City Council.

"Sec. 22. *Collector of Revenue.*—The City Council shall appoint a Collector of Revenue who shall hold office at the pleasure of the City Council. In all other respects the Collector of Revenue shall be deemed a subordinate of the City Manager. Where the General Laws of North Carolina refer to duties and obligations of a Tax Collector, this reference shall be deemed, insofar as the City of Durham is concerned, to refer to the Collector of Revenue.

"ARTICLE 2. Policemen, Firemen and Public Safety Officers.

"Sec. 23. *Authority of City Manager.*—The City Manager shall appoint the Police Chief and the Fire Chief. All policemen, firemen and public safety officers are under the supervision and control of the City Manager. The City Manager shall prescribe the uniforms, badges and armaments for policemen, firemen and public safety officers. The City Council may by ordinance, prohibit the wearing of such uniforms and badges by unauthorized persons.

"Sec. 24. *Special Police.*—No person except as otherwise provided by General Law or by this Charter shall act as special police, special detective or other special police officer for any purpose whatsoever except upon written authority from the City Manager. Such authority, when conferred, shall be exercised only under the direction and control of the Chief of Police and for a specified time.

"Sec. 25. *Arrest Authority of Firemen.*—Persons exercising the duties of firemen shall have power, and are hereby authorized, to make arrests during fires for interference with or obstruction of their duties.

"Sec. 26. *Destruction of Hazardous Buildings.*—Whenever any building in the City shall be on fire, it shall be lawful for the Chief of the Fire Department to order and direct such building or any other building which he may deem hazardous and likely to communicate fire to other buildings, or any part of such buildings, to be pulled down or destroyed; and no action shall be maintained against the Chief or any person under his authority, or against the City therefor, except as hereinafter provided. But any person interested in the property so destroyed may within one year thereafter apply in writing to the Council to assess and pay the damages he has sustained. The Council may thereupon pay to the claimant such sum as may be agreed upon between him and the Council. No such claimant shall bring suit against the City for such damage unless he shall have first presented his claim in the manner prescribed by this section, and the City Council shall have declined to pay or settle the same, or for 10 days after such presentation shall have neglected to enter, or cause to be entered, upon its minutes its determination in regard thereto.

"Sec. 27. *Auxiliary Policemen and Firemen.*—The City Council is authorized to provide by ordinance for the organization, recruiting, training, equipping and appointing of auxiliary policemen and auxiliary firemen for the City, subject to the following conditions:

(a) Auxiliary policemen and firemen duly appointed by the proper authorities of the City shall, while training and while performing duties on behalf of the City incidental to their appointment, be entitled to the benefits of Chapter 97 of the General Statutes of North Carolina, designated 'Workmen's Compensation Act,' to the same extent that regular employees of the City are entitled to the benefits of the Act. For the purposes of determining the basis for Workmen's Compensation payments to auxiliary policemen such payments shall be based upon the entrance salary of a regular police patrolman of the City at the time of injury to an auxiliary policeman. For the purpose of determining the basis for Workmen's Compensation payments to auxiliary firemen such payments shall be based upon the entrance salary of a regular fireman of the City at the time of injury to an auxiliary fireman.

(b) Auxiliary policemen and firemen, appointed pursuant to this authority, shall not be entitled to pay for their services unless called into active duty by the City Council because of emergency, in which event they may receive such compensation for their services as shall be fixed by ordinance adopted by the City Council. Auxiliary policemen and firemen shall not be entitled to any of the benefits provided for regular employees of the City, except Workmen's Compensation as set out in this section; provided, that this subsection shall not in any manner affect the rights of any person to benefits provided by the State of North Carolina or by Act of Congress for civilian defense workers or auxiliary policemen or firemen.

(c) The City shall be entitled to the same immunities with respect to the action of auxiliary policemen and auxiliary firemen in the performance of their duties, while training or otherwise, that it is entitled to with respect to the action of the regular policemen and firemen of the City in the performance of their duties.

"Sec. 28. *Political Campaign Activity Prohibited.*—Policemen, firemen and public safety officers shall not engage in political campaigns for elective office, nor attempt to influence the result of such campaigns, except by exercise of the right to vote.

"Sec. 29. *Director of Public Safety.*—The City Council is authorized to provide for the employment of a Director of Public Safety, to fix his compensation, and to define his official duties and authority.

If the City Council provides for the employment of a Director of Public Safety, he shall be under the supervision and control of the City Manager.

"ARTICLE 3. Water Department.

"Sec. 30. *Authority to Operate Waterworks.*—(1) The City Council is authorized to conduct and operate the municipally owned waterworks of the City for the purpose of supplying the purchasers of water of the system with a good and wholesome supply thereof. Persons employed by the City in connection with said system shall be appointed by the City Manager and shall be under his supervision and control.

(2) For the purpose of properly operating and maintaining the system and for making additions and improvements thereto as may be necessary at all times to properly operate the system, the City Council shall have power to acquire by purchase or by condemnation additional property or rights within or without the City.

(3) The City Council, and all persons acting under their authority, shall have the right to use the ground or soil, in, or upon, or under any road, railroad, highway, lane or alley for the purpose of enlarging or improving or maintaining the plant or system of waterworks owned by the City, upon the condition that they shall not permanently injure any such property, and that the same shall be restored to its original condition, or damages done thereto shall be repaired by the City Council.

"Sec. 31. *Rates and Charges.*—The City Council shall provide for the collection of all rents, forfeitures or emoluments arising from the operation of the system of waterworks of the City. They shall cause accurate accounts to be kept of all receipts and expenditures of money, from or on account of the operation of the municipal waterworks, separate and apart from the other receipts and expenditures of the City.

The City Council shall regulate the distribution and use of water for all places and all purposes, where the same may be required, and from time to time shall fix a price for the use thereof and the time of payment, and they shall erect such a number of public hydrants in such places as they shall see fit, and shall direct in what manner and for what purpose the same shall be used, and they shall also erect any and all such other hydrants as may be necessary; provided, that the City Council shall have the power to make ordinances, rules and regulations governing the erection, installation and use of hydrants on private property, and to fix the rate of charges therefor; and they are hereby expressly given the right and power to make rules and regulations governing the use of all hydrants heretofore erected on any and all private property as they may deem best for the proper management of the waterworks system and the proper fire protection of the City.

The City Council shall have full power and authority to require payment in advance for the use or rent of water furnished by them in or upon any building, place or premises, and in case prompt payment shall not be made, they may shut

off the water from such building, place or premises after five days' notice, and shall not be compelled again to supply the premises, building or place with water until the arrears thereon shall be fully paid.

"Sec. 32. *Regulations.*—The City Council shall have power to make rules and regulations with respect to the introduction of water into or upon any premises, and from time to time to regulate the use thereof, in such manner as shall seem to them necessary and proper, and the City Council and all engineers, superintendents or inspectors in their service, are hereby authorized and empowered to enter, after demand made and refusal, at all reasonable hours, any dwelling or other place where such water is taken and used where unnecessary waste of water thereof is known or suspected, to examine and inquire into the cause thereof, and if any person refuses to permit such examination, or opposes or obstructs such officer in the performance of such duties, he, she, or they so offending shall forfeit and pay the sum of ten dollars ($10.00), to be recovered before the General Court of Justice in an action by the City Council, and the supply of water may also be cut off until the required examination is made and the required alterations and repairs are made.

If any person or persons shall maliciously or wilfully divert the water or any portion thereof from the City waterworks, or shall corrupt or render the same impure, or shall destroy or injure any canal, aqueduct, pipe, or other property, used or acquired for distributing the water, such person shall be guilty of a misdemeanor, and upon conviction shall be fined not exceeding five hundred dollars ($500.00), or shall be imprisoned not exceeding one (1) year, at the discretion of the court.

The City Council shall have the power to adopt such rules and regulations as may be just and proper, regulating the use of water by householders, persons, firms and corporations, and in order to conserve the water supply of the City in case of any drought may require reasonable curtailment in the use of water by the adoption of reasonable ordinances, rules and regulations; and all persons, firms and corporations in the City are required to observe the ordinances, rules and regulations adopted by the City Council, and any person, firm or corporation who shall fail, neglect, or refuse to observe any of the ordinances, rules and regulations of the City Council shall be subject to and pay a penalty of twenty-five dollars ($25.00) for each offense, to be recovered before the General Court of Justice.

"Sec. 33. *Protection of the Public Water Supply.*—Whenever it is reported by the City Manager that a case of sickness on the watershed may produce conditions dangerous to the public health, it shall be the duty of the City Council and of the City Manager to take any and all necessary precaution to prevent the public water supply from becoming contaminated, and the City Council and the City Manager, upon the advice of the Durham County Health Department that a sick person can safely be moved, shall be empowered to order the removal of such person to a hospital in or near the City, or at the option of such person to some other place beyond the limits of the watershed, and to cause a law enforcement officer to make such removal: Provided, that all reasonable expenses for care and attention to such sick person at a hospital shall be paid by the City.

"CHAPTER V.
"FINANCE AND TAXATION.

"ARTICLE 1. Annual Budget.

"Sec. 41. *Fiscal Year and Annual Estimate.*—The City Council shall determine upon the date of beginning of the fiscal year of the City and shall cause to be prepared a plan for financing the municipality during the fiscal year, which plan shall be known as the budget and shall be based upon detailed estimates furnished by the several departments and other divisions of the municipal government. In so determining the fiscal year and providing for the preparation of the budget, the City Council shall act in the manner now or hereafter provided by the laws of the State of North Carolina.

"Sec. 42. *Revenue.*—In order to raise funds for the current expenses of the City, and thereafter for the improvement of the same, and the payment of the interest on its bonded debt, and the creation of a fund to meet the principal of that debt when due, the City Council shall, in the manner now or hereafter provided by the laws of the State of North Carolina, lay and provide for the collection of the following taxes:

(1) On real and personal property within the limits of the City, and all other subjects taxable by the General Assembly of the State, as specified and valued under the provisions of law, an ad valorem tax not exceeding the limit fixed by law on every hundred dollars of such valuation as of the date fixed in each year for the valuation of property for taxation for State and county purposes.

(2) All other taxes, as authorized by act of the General Assembly.

"Sec. 43. *Collection of Liens and Charges.*—When any lien or charge for repairs or improvements of the sidewalks, gutters or streets of the City, or for the inspection, removal or destruction of buildings, or for the suppression and removal of nuisances, or other lien or charge of whatever nature or kind, authorized by this Charter, shall be due and unpaid to the City, the Collector of Revenue shall proceed to collect the same by the same process and in the same manner as he is authorized to collect taxes due upon the property subject to such lien or charge by applicable State and local laws.

"ARTICLE 2. Property Taxes.

"Sec. 44. *Administration.*—The listing and appraisal of property and the levy and collection of property taxes in the City shall in all respects be governed by the General Laws of the State, except as they shall be specifically amended by this Charter.

"Sec. 45. *Acceptance of Deeds in Lieu of Payment.*—(1) When the taxes or any special assessments upon any real property in the County of Durham are past due and unpaid, and the owner or owners thereof offer to convey such real property to the City, the City Council is authorized to accept the deed for such real property in payment of the taxes and special assessments due the City, and to pay the necessary expense of procuring and recording such deed.

(2) The acceptance of such deed by the City Council shall not interfere with the lien for taxes or assessments due any other taxing unit, and shall not interfere with any other valid recorded lien on such real property at the time of the execution of such deed. Any real property so conveyed to the City may be resold by such unit at any time to such person or persons and for such price as the City Council may approve.

(3) This section amends G.S. 105-357(a) of the Machinery Act.

"ARTICLE 3. Privilege License Taxes.

"Sec. 46. *Authority To Impose.*—In addition to subjects listed for taxation, the City Council is hereby authorized and empowered to impose taxes on trades,

professions, franchises, privileges, licenses, and other subjects of taxation not inconsistent with the Constitution of the State of North Carolina. The City Council shall have power to graduate any of the license taxes on trades, professions, franchises, privileges, licenses, or businesses, by dividing the same into classes, according to size, patronage, or income: Provided, the said taxes must be uniform for all in a class. Any person carrying on or practicing any franchise, business, profession, or trade of any kind in the City upon which a license tax has been levied by the City Council, without having first obtained a license therefor, shall be guilty of a misdemeanor.

"Sec. 47. *License Year.*—The license year shall begin on the first day of June of each and every year.

"Sec. 48. *License Not Transferable.*—No license issued by the City Council shall be for more than a year, and same shall not be transferable or assignable except by the permission of the City Council.

"CHAPTER VI.

"ADDITIONAL POWERS.

"ARTICLE 1. Law Enforcement.

"Sec. 49. *Payment of Rewards.*—(1) The City Council is hereby fully authorized and empowered, in its sound discretion, to offer to pay, and to pay, rewards to any person or persons who furnish information leading to the arrest and conviction of any person who turns in a false fire alarm, or who wilfully injures or damages any property or facility owned, operated, or maintained by the City, or who commits within the City any criminal act in violation of the laws of the State of North Carolina.

(2) Any available public funds may be used for the purposes herein specified, it being the legislative determination and declaration that the offering and payment of such reward for this purpose is in promotion of the public safety and general welfare and is a necessary governmental function.

"Sec. 50. *Investigations of City Affairs.*—(1) The governing boards of the City and the County of Durham are hereby authorized jointly to establish from time to time in their discretion a special jury commission for the purpose hereinafter set out. If such jury commission is established, it shall be composed of five (5) members of the City Council, to be appointed by the Mayor, and three (3) members of the Board of Commissioners of Durham County, to be appointed by the chairman of such Board, all of whom shall serve ex officio as members of the special jury commission without additional compensation. It shall be the duty of the special jury commission, if established, to select from among all the qualified persons eligible for jury duty in Durham County the names of eighteen (18) persons, who shall constitute a special grand jury for the purposes set out in this section.

(2) If the special grand jury authorized under Section 1 of this section is drawn, it shall choose from among its members a chairman, who shall have authority to administer oaths. It shall be the duty of the special grand jury to inquire into, examine and investigate the conduct and activities of the police department of the City and of the law enforcement officers of Durham County, with particular reference to any evidence of criminality among such law enforcement officers or any evidence of collusion with criminal elements or acquiescence in criminal conduct, and shall also investigate any evidence of organized crime or racketeering in the County and City and any evidence of a connection between such organized crime and any officials or employees of the

County or City. The special grand jury shall have the same power and authority with respect to summoning and examining witnesses under oath, returning bills of indictment, and carrying on investigations to the same extent and in the same manner as the regular grand jury of the County, and bills of indictment returned by it to the Superior Court of Durham County shall have the same force and effect as bills of indictment returned by the regular grand jury of the County. The special grand jury shall make such report and recommendations to the governing bodies of the City and County of Durham as to it the facts revealed by its inquiries and investigations seem to justify.

(3) The special jury commission authorized by this section shall have power and authority to employ some duly qualified attorney to act as special prosecutor in connection with the work of the special grand jury and to employ such clerical assistance and purchase such supplies as may be needed by the special grand jury and the special prosecutor. The special prosecutor shall bear the same relation to the special grand jury as the district solicitor bears to the regular County grand jury, and it shall be the duty of the special prosecutor to assist the district solicitor in the prosecution of any cases in the Superior Court upon bills of indictment returned by the special grand jury. All cost, expenses of the special grand jury and of the special prosecutor and of clerical assistance and supplies shall be borne one-half by the City and one-half by the County of Durham. The City Council and the Board of County Commissioners of Durham County are hereby expressly authorized to appropriate and expend from general or other funds of the City and County respectively, the amounts of money which may from time to time be necessary to carry out the provisions of this section.

(4) Upon the completion of its investigation and upon making its reports and recommendations to the governing bodies of the City and County of Durham, any such special grand jury shall make a final report to the Senior Resident Superior Court Judge of the fourteenth judicial district and shall thereupon be discharged.

"ARTICLE 2. Streets, Traffic and Parking.

"Sec. 51. *Street Closings; Notice.*—In the closing of streets and alleys in the City pursuant to the provisions of G.S. 160A-299, a copy of the resolution declaring the Council's intent to close any street or alley need be sent only to those owners of property adjoining the street or alley in the portion of the street or alley proposed to be closed.

"Sec. 52. *Railroad Crossings.*—The City is authorized to provide for the better protection of life, limb, person and property at crossings of the streets of the City and the railroad tracks now located, or which may hereafter be located, in the City, and to require railroad companies operating on these tracks to erect gates or place flagmen to warn the public of the approach of trains or engines.

"Sec. 53. *Openings under the Streets; Obstructions.*—The City shall have the authority to prevent cellars from being opened under the streets or sidewalks of the City, and to prevent the depositing of trash boxes or other rubbish or obstructions upon the streets or sidewalks of the City.

"Sec. 54. *Regulation of Parking.*—(1) The City is granted the power and authority to enact ordinances for the regulation of the use by vehicles of

(a) Municipally owned or operated off-street parking areas and facilities;

(b) Off-street publicly owned parks, outdoor recreation areas, yards and grounds occupied by public buildings; and

(c) Privately owned areas permissively used by the general public for street purposes.

(2) In the exercise of the power and authority granted by subsection 1 hereof, the Council shall have full power and authority to make and provide criminal penalties for violations of such ordinances, not exceeding the penalties provided by General Law for the violation of city ordinances; provided, however, the Council is granted power and authority, in addition to the foregoing, to provide that such vehicles in violation of parking regulations at any of the places included within the authority designated herein may be towed away and the owner or person responsible therefor required to pay the resulting towing and storage charges.

(3) The Council is authorized to provide by ordinance that vehicles stalled, wrecked, abandoned, or illegally parked upon any of the public streets of the City may be removed therefrom by having the same towed away to such off-street or other on-street place as may be designated by the Council, and to require that the owner or person, firm, or corporation responsible for the vehicle be required to pay the towing and storage charges accruing from such removal; and in the carrying out of the provisions relating to the removal and storage of vehicles, the Council is fully authorized and empowered to provide such towing and storage facilities by and through its own forces, equipment, and property as well as by contract with independent towing and storage contractors and operators, and the Council may appropriate and use reasonable sums of public funds to defray the necessary expenses thereof.

"Sec. 55. *Removal of Abandoned or Junked Motor Vehicles from Private Property.*—(1) In addition to the power and authority now possessed or hereafter granted by General or Special Laws, the City Council is hereby granted the power and authority to establish charges to be made for the cost of removing abandoned or junk motor vehicles from private property. When the City causes the removal of any such vehicle from private property pursuant to an ordinance permitting such removal and the owner or other person having control of the property fails to pay the cost of such removal and disposal within 30 days after it becomes due, the amount of the cost of removal and disposal of such vehicle shall on the 30th day after the due date thereof become a lien against the real property from which the vehicle was removed; and the amount of such costs shall be placed upon the tax books of the City against the property and may be collected and the lien may be foreclosed in the same manner as taxes are collected and foreclosed, or by suit, as the municipality may determine.

(2) A motor vehicle shall be deemed to be abandoned or a junk motor vehicle for the purposes of this section in the following circumstances: (1) it is partially or completely dismantled or wrecked; or (2) it is incapable of self-propulsion or of being moved in the manner for which it was originally intended; or (3) it has been abandoned, is inoperable, or damaged and worth less than fifty dollars ($50.00); or (4) it is a junk vehicle and has been so abandoned for a period of not less than 30 days.

(3) The provisions of this section and of any ordinance enacted pursuant hereto are hereby declared to be in furtherance and promotion of the public interest and welfare and to constitute a public purpose.

"Sec. 56. *Private Parking Lots.*—The provisions of G.S. 20-162.2, relating to the removal of unauthorized vehicles from private lots, shall also apply to

parking spaces leased to persons, firms or corporations in parking lots or garages owned, leased or otherwise operated by the City.

"ARTICLE 3. Police Power.

"Sec. 57. *Shade Tree Protection.*—The City Council is authorized to adopt such measures as may be necessary to protect the shade trees of the City.

"Sec. 58. *Regulation of the Use of Public Property.*—The City Council is empowered to adopt such ordinances for the regulation and use of the streets, squares and parks and other public property belonging to the City as the City Council may deem best for the public welfare of the citizens of the City.

"Sec. 59. *Suppression of Nuisances.*—The City Council is authorized to take action to prevent, suppress and remove nuisances in the City.

"Sec. 60. *Fireworks and Firearms.*—The City Council shall have power to regulate or prevent the firing of firearms, fireworks, and all explosives or combustible or dangerous material in the streets, public grounds or elsewhere, within or near the City.

Fireworks may be exhibited, used or discharged at public exhibitions, such as fairs, carnivals, shows of all descriptions and public celebrations, only after written permission has been obtained from the City Council.

"Sec. 61. *Sunday Observance.*—The City Council shall have the authority to make suitable regulations for the observance of Sunday in the City and to provide for the proper enforcement of the same.

"Sec. 62. *Regulation of Amusements.*—The City Council may provide for the regulation and restraining of theatrical performances, moving picture shows, carnivals and other public performances or amusements within said City, and to enforce all such provisions.

"Sec. 63. *Removal of Trash, Weeds, etc., Lien.*—The City Council shall have power to require the owner or owners of all premises, vacant or improved, to keep the same free from trash, obnoxious weeds, overgrowth, solid wastes and stagnant water and to provide that in the case of failure on the part of such owner or owners to comply with any such requirement, to go upon their premises and perform such work as may be necessary to comply with such requirement, and to charge the cost thereof against the premises upon which such work is performed.

The costs to the City of any work performed under this section shall constitute a lien upon the premises upon which the work is performed and may be collected in the same manner as taxes upon real property. The term 'costs' as used in this section shall include interest at the rate of eight percent (8%) per annum until said lien is paid.

"ARTICLE 4. Regulation of Businesses.

"Sec. 64. *Regulation of Bondsmen.*—The City Council shall be authorized to regulate and license professional bondsmen and sureties, in accordance with the authority granted to the City by the Session Laws of 1949, Chapter 899.

"Sec. 65. *Protection of Businesses from Fraud.*—The City Council shall be authorized to protect hackmen, carriage drivers, chauffeurs, keepers of restaurants, boardinghouses and hotels from being cheated, defrauded or deprived of just compensation for services rendered or accommodation furnished, and, if necessary for such purposes, to make and enact ordinances prescribing fines and penalties.

"Sec. 66. *Licensing of Plumbers and Electricians.*—(1) The City Council may regulate and license plumbers and those engaged in the electrical wiring of

buildings for light, power or heat, and before issuing a license may require the applicant to be examined and to give bond in such sum and upon such conditions as the City Council may determine, and with such sureties as it may approve, and the City Council, may, for incompetency on the part of such licensee or for refusal to comply with the ordinances relating to such business, or for any other good cause, revoke any license issued hereunder.

(2) No person, firm or corporation shall do any kind of plumbing or electrical wiring of buildings without first having obtained a license from the City Council.

"ARTICLE 5. Franchises.

"Sec. 67. *Franchises.*—When in their judgment it is necessary for the safety, welfare, or convenience of the people of the City, the City Council shall have power to grant franchises for the use of the public property of the City. No franchise shall be granted for a longer period than 60 years.

"Sec. 68. *Right of City to Purchase or Take Over Property.*—Every grant of a franchise or privilege and every contract therefor, made or granted by the City, may provide that at the expiration of the term or period for which it is made or granted, the City, upon the payment of a fair valuation thereof to be made in the manner provided in the grant or contract, may purchase and take over to itself the plant as well as the property, if any, of the grantee in the streets, avenues and other public places in its entirety, but in no case shall the value of the franchise of the grantee be considered or taken into account in fixing such valuation; or such grant and contract may provide that such plant and property shall at the expiration of such term or period become the property of the City without any compensation to the grantee.

"Sec. 69. *Method of Granting Franchise.*—No franchise shall be granted, renewed, extended or amended except by ordinance. No franchise shall be granted, renewed, extended or amended unless the City Council shall hold a public hearing on the proposed ordinance. Notice of the hearing shall be published once each week for four successive weeks before the date of the hearing. The notice shall fix the date, hour and place of the hearing, and shall contain a statement of the Council's intent to consider the granting, renewing, extending or amending of the franchise. The ordinance may be adopted at the meeting at which the public hearing is held or at some subsequent meeting. The ordinance shall be effective upon passage or at such subsequent time as the Council may prescribe without the necessity of being adopted at two regular meetings of the Council. No such ordinance shall be held invalid for failure to observe the procedural requirements for enactment imposed by this section unless the issue is joined in an appropriate proceeding initiated within 90 days after the date of passage of the ordinance.

"Sec. 70. *Transfer of Franchise.*—No franchise shall be transferable except with the approval of the Council expressed by ordinance, and copies of all transfers and mortgages or other documents affecting the title or use of any franchisee shall be filed with the City Manager within ten days after the execution and delivery thereof.

"Sec. 71. *Rights Reserved to the City.*—All grants, renewals, extensions or amendments of franchises, whether so provided in the ordinance or not, shall be subject to the right of the City:

(1) To repeal the same by ordinance at any time for misuse or nonuse, or for failure to begin construction within the time prescribed or otherwise to comply with the terms prescribed.

(2) To require proper and adequate extension of plant and services and the maintenance of the plant and fixtures at the highest practicable standard of efficiency.

(3) To establish standards of service and quality of products and prevent unjust discrimination in service or rates.

(4) To prescribe the form of accounts and at any time to examine and audit the accounts and other records of any such franchisee; provided that, if forms of account shall have been prescribed by the State Utilities Commission of North Carolina for public utilities through the State the forms so prescribed shall be controlling so far as they go. But the Council may prescribe more detailed forms for the franchisees within its jurisdiction.

(5) To impose such other regulations as may be conducive to the health, safety, morals, welfare and conveniences of the public.

"Sec. 72. *Extensions.*—All extensions of public utilities within the City limits shall become a part of the aggregate property of such public utility, shall be operated as such and shall be subject to all the obligations and reserved rights contained in this Charter and in any original grant hereafter made. The right to use and maintain any such extension shall terminate with the original grant.

"Sec. 73. *Regulation of Franchise Services.*—Consistent with applicable State laws, the City Council shall have the authority to:

(1) Prescribe and regulate the charges for the carriage of persons, baggage and freight by bus, street car, automobiles, taxicabs, wagons, or other vehicles used in the City for the transportation for hire of persons, or things, and also to prescribe rules and regulations for the operation of all such vehicles.

(2) Establish all necessary rules and regulations for the government and conduct of the business of such persons or corporations as are engaged in supplying electricity or gas for lighting, heating or other purposes, street railway service, telephone service and other public utility service in the City, in order that the health, safety and convenience of the citizens of the City shall be secured.

"ARTICLE 6. Eminent Domain.

"Sec. 74. *Optional Condemnation Procedures.*—In addition to any other authority for the condemnation of property which is given to the City by General or Special Law, the City shall be authorized to:

(1) Purchase or acquire by condemnation any land, including the dwelling, yard, or garden of any person, as may be necessary for the opening, extension, widening or improvement of the streets or alleys, or for the purpose of acquiring land for parks or public buildings, or for any other public purpose.

(2) Condemn any land that may be required for the purpose of erecting any building or buildings for the City Hall, market houses, fire companies, graded or public schools, and for any other public building, whether like those enumerated above or not.

"Sec. 75. *Chapter 136 Procedure Authorized.*—The procedures provided in Article 9 of Chapter 136 of the General Statutes, as specifically authorized by G.S. 136-66.3(c), shall be applicable in the case of acquisition by the City of lands, easements, privileges, rights-of-way, and other interests in real property for any and all public purposes in the exercise of the power of eminent domain;

and the City, when seeking to acquire such property or rights or easements therein or thereto, shall have the right and authority, at its option and election, to use the provisions and procedures as authorized and provided in G.S. 136-66.3(c) and Article 9 of Chapter 136 of the General Statutes for any of such purposes without being limited to streets constituting a part of the State Highway System; provided, however, that nothing herein shall be construed to enlarge the power of the city to condemn property already devoted to public use.

"Sec. 76. *Determination of Compensation.*—In any case where the City shall condemn land for any public purpose, the appraisers appointed in such proceeding or proceedings shall determine what amount, if any, shall be paid to the owner or owners of such land so taken for public use, and shall determine to what extent such lands, or the remainder thereof, is benefitted either specially or in common with other lands similarly situated, and the amount to be paid to such owner or owners shall be reduced by the amount by such benefit or benefits accruing to such lands either special or in common with other lands similarly situated, and when such benefits, either special or in common with others as aforesaid, are ascertained to exceed the damages of such lands, then the City, in acquiring the same by right of eminent domain, shall pay the cost of the proceeding except as otherwise provided by law, and shall not have judgment for the excess of benefits over the damage.

"ARTICLE 7. Special Assessments for Improvements.

"Sec. 77. *Assessments for Water, Sewer, Street, Sidewalk, Grass Plot, Lighting, and Waterfront Improvements.*—(1) It is the purpose of this section to provide a method whereby one or more local improvements of the kind specified in subsection four of this section and the assessments therefor may be made on or in one or more streets in a single proceeding by the City.

(2) This section is intended to prescribe the complete procedure for the making of those local improvements referred to in subsection four and for assessing and collecting such portion of the cost thereof as is hereinafter provided; but the method hereby provided is not intended to be exclusive, and the City may proceed with respect to such local improvements either as prescribed by this section or as is now or may hereafter be prescribed by the Special or General Law.

(3) In this section certain words and phrases will be used with the following meaning, unless some other meaning is plainly intended:

(a) A 'local improvement' is an improvement defined by this section and made under the provisions hereof.

(b) A 'street' is a public way embracing a street, boulevard, avenue, lane, alley, parkway, court and terrace, but not embracing sidewalks.

(c) A 'sidewalk' is a path for pedestrians along a street.

(d) A 'storm sewer' is a conduit above or below ground for the passage of storm water, and may embrace a pumping station and outlet where deemed necessary; and may also embrace the building of culverts over or the enclosing of streams where necessary or advisable to carry off storm water.

(e) A 'sanitary sewer' is a conduit for the passage of sewage, and may embrace a pumping station and outlet where deemed necessary.

(f) A 'water main' is a pipe for the passage of city water for public hydrants and private and public use and consumption.

(g) A 'lateral' is a pipe connecting a storm or sanitary sewer or water main with the line of adjacent property or the curb line, as the City Council may

prescribe, being either a sewer lateral or a water lateral, but does not include a building connection, that is a pipe extending from a lateral at the property line or curb line to the house or plumbing fixtures on the property to be served.

(h) The word 'sewer' includes both sanitary and storm sewers unless a contrary intention is shown.

(4) Improvements authorized to be made under the provisions of this section are divided into eight classes, as follows:

(a) Water main improvements, which include the laying or construction of water mains, the relaying where necessary of parts of paved streets and sidewalks torn up or damaged incident to the laying or construction of such mains, and in any case where the improvement is made upon petition and the petition so requests, or in any case where the improvement is made without petition and the City Council so directs, the laying of water laterals.

(b) Storm sewer improvements, which include the laying or construction of storm sewers, the relaying where necessary of parts of paved streets and sidewalks torn up or damaged incident to the laying or construction of such sewers, and in any case where the improvement is made upon petition and the petition so requests, or in any case where the improvement is made without petition and the City Council so directs, the laying of storm sewer laterals.

(c) Sanitary sewer improvements, which include the laying or construction of sanitary sewers, the relaying, where necessary, of parts of streets and sidewalks torn up or damaged incident to the laying or construction of such sewers, and in any case where the improvement is made upon petition and the petition so requests, or in any case where the improvement is made without petition and the City Council so directs, the laying of sanitary sewer laterals, the construction or reconstruction of pumping stations and force mains or the construction or reconstruction of sanitary sewer outfalls.

(d) Street paving improvements, which include the grading, regrading, paving, repaving, macadamizing and remacadamizing of streets, with necessary drainage, sewer inlets, manholes and catch basins and the construction or reconstruction of retaining walls made necessary by any change of grade incident to such improvement, and in any case where the improvement is made upon petition if the petition so requests, or in any case where the improvement is made without petition if the City Council so directs, it may include the construction or reconstruction of curbs, gutters and drains.

(e) Sidewalk improvements, which include the grading, regrading, construction and reconstruction of paved or otherwise improved sidewalks, the construction or reconstruction of retaining walls made necessary by and incident to such improvement, and in any case where the improvement is made upon petition, if the petition so requests, or in any case where the improvement is made without petition if the City Council so directs, it may include the construction or reconstruction of curbs, gutters, and drains.

(f) Grass plot improvements, which include the grading and planting of grass plots in a street or along one or both sides of a street.

(g) Lighting improvements, which include the construction of street lighting systems, consisting of ornamental lights or of lights of greater strength, or lights placed at more frequent intervals, or both, than is ordinarily provided by the City making the improvement for streets of such character at public expense.

(h) Water front improvements, which embrace the construction of boardwalks, bulkheads, seawalls and other retaining walls along a bay, river, canal or lake, with necessary fills and dredging, and may embrace the acquisition by purchase, condemnation or otherwise of land, rights and easements therefor.

(i) Opening, clearing, grading, drainage, and otherwise improving streets, avenues and alleys dedicated for public use by a recorded map or plat.

(5) The power of the City to make the local improvements embraced in this section shall be exercised only upon petition as set out in subsection seven of this section, except in those cases covered by subsection eight of this section, in which cases such power may be exercised without petition. The provisions of this section shall not be construed to limit authority granted elsewhere in this Charter or by general or special law to make special assessments for local improvements without the filing of a petition as provided in this section.

(6) Any petition to the City Council for the making of the local improvements authorized by this section may embrace any one or more of the classes of local improvements named in subsection four, and may embrace improvements to be made on or in one or more streets; provided, any improvement to be made on or in more than one street shall be practically uniform in cost and kind throughout the improvement.

(7) The petition for any one or more of such local improvements shall designate by a general description the improvement or improvements proposed, and shall request that the same be made in conformity with the provisions of this section and that such proportion of the cost of each of such improvements as may be specified in the petition be specially assessed against the property abutting on the street or streets or part thereof in which or on which such improvements are proposed to be made. The petition shall be signed by at least a majority in number of the owners, which majority must own at least a majority of all the lineal feet of frontage, of the lands abutting upon the street or streets or part of a street or streets proposed to be improved, excluding street intersections, and for the purpose of the petition, all the owners of undivided interests in any land shall be deemed and treated as one person and such land shall be sufficiently signed for when the petition is signed by the owner or owners of a majority in amount of such undivided interests; provided, that for the purpose of this subsection the word "owners" shall be considered to mean the owners of any life estate, of an estate by entirety, or of the estate of inheritance, and shall not include mortgagees, trustees of a naked trust, trustees under deeds of trust to secure the payment of money, lienholders, or persons having the inchoate rights of a surviving spouse. Upon the filing of such petition with the City Council, the clerk, or other person designated by the Council, shall investigate the sufficiency of the petition, and if it is found to be sufficient, he shall certify the same to the Council.

(8) Whenever in the judgment of the City Council any street or part of a street is unsafe and dangerous, or whenever the paving or repaving of any street or part thereof is necessary in order to connect streets already paved, or whenever the paving of any street is necessary in order to connect any paved portion of any city streets with a paved highway outside the corporate limits of the City, or whenever the paving of any street or part thereof is necessary to provide a paved approach to any railroad underpass or overpass or other bridge, or whenever any paved street or part thereof has been widened, if in such case, in the opinion of the City Council, public interest requires that the improvement

be made, and if, in the opinion of the Council, the abutting property will be benefited by the improvement to the extent of the part of the cost thereof to be assessed against such abutting property, the Council may without petition of the property owners order the making of such improvement. Whenever any such improvement is ordered made by authority of this subsection, the ordering of the paving of any street or part thereof may include the necessary water main and sewer improvements and the necessary water and sewer laterals, and it may, but need not, include the construction of sidewalks on one or both sides of the street.

(9) Upon the finding by the City Council that the petition for a local improvement or improvements is sufficient, or when it is proposed to make without petition any improvement or improvements authorized to be made without petition by subsection eight of this section, the Council shall adopt a resolution which shall contain substantially the following:

(a) That a sufficient petition has been filed for the making of the improvement or improvements; or, if it is proposed to make the improvement or improvements without petition, a statement of the reasons proposed for the making thereof;

(b) A brief description of the proposed improvement or improvements;

(c) The proportion of the cost of the improvement or improvements to be specially assessed and the terms of payment;

(d) A notice of the time and place, when and where a public hearing will be held on the proposed improvement or improvements. (The time fixed for such public hearing shall be such as to allow of notice being given thereof not less than ten days' prior thereto.);

(e) A notice that all objections to the legality of the making of the proposed improvement or improvements shall be made in writing, signed in person or by attorney, and filed with the clerk of the City at or before the time of the hearing and that any such objections not so made will be waived.

At least 10 days prior to the date fixed for the hearing, the City Council shall cause a notice to be published at least one time in a newspaper of general circulation in the City. The notice shall contain the information described in paragraphs (a) through (e) of this subsection (9).

(10) At the time for the public hearing, or at some subsequent time to which such hearing shall be adjourned, the City Council shall consider such objections to the legality of the making of the improvement or improvements as have been made in compliance with paragraph (e) of the preceding subsection, together with such objections as may be made to the policy or expediency of the making of the improvement or improvements; and the Council shall thereafter determine whether it will order the making of the improvement or improvements. Any objection against the legality of the making of the improvement or improvements not made in writing, signed in person or by attorney, and filed with the clerk of the City at or before the time or adjourned time of such hearing shall be considered as waived; and if any such objection shall be made and shall not be sustained by the Council, the adoption of the resolution ordering the making of the improvement or improvements, as provided in the next following subsection, shall be the final adjudication of the issues presented, unless within ten days after the adoption of such resolution proper steps shall be taken in a court of competent jurisdiction to secure relief.

(11) After such public hearing, if the City Council determines to make the improvement or improvements proposed, the Council shall adopt a resolution which shall contain:

(a) If the improvement or improvements are to be made by virtue of a petition, a finding by the Council as to the sufficiency of the petition. (The finding of the Council as to the sufficiency of the petition shall be final and conclusive.) If the improvement or improvements are to be made without petition by virtue of the authority contained in subsection eight of this section, a finding by the Council of such facts as are required by the subsection in order to authorize the Council to order the improvement or improvements made without petition;

(b) A general description of the improvement or improvements to be made and the designation of the street or streets or parts thereof where the work is to be done;

(c) If the improvement directed to be made is the paving of a street or part thereof wherein a street railway or railroad company has tracks, a direction that the company pave that part of the street occupied by its tracks, such part to include the space between the tracks, the rails of the tracks, and 18 inches in width outside such tracks, with such material and in such manner as the Council may prescribe, and that unless such paving shall be completed on or before a day specified in the resolution, the Council will cause the same to be done; provided, however, that where any such company shall occupy such street or streets under a franchise or contract which otherwise provides, such franchise or contract shall not be affected by this section, except in so far as may be consistent with the provisions of such franchise or contract;

(d) If the improvement directed to be made includes the construction of water mains or sewers, and in order to provide such mains or sewers in the street or streets to be improved it is necessary to extend the same beyond the limits of such street or streets, the resolution shall contain a provision for the necessary extension of such mains or sewers and a further provision that the cost of such extension shall eventually be assessed against the lots or parcels of land abutting on the street or streets in which such extensions are made but that such assessment shall not be made until such time as the Council shall thereafter determine;

(e) If the improvement directed to be made is the paving of a street or part thereof, or the construction of sidewalks, the resolution may, but need not, contain a direction that the owner of each lot abutting on the part of the street to be improved, connect his lot by means of laterals with water mains, gas or sewer pipes, or any one or more thereof, located in the street adjacent to his premises in accordance with the requirements of the City governing the laying of such laterals, and that unless such owners cause such laterals to be laid on or before a date specified in the resolution, such date to be not less than 30 days after the date of the resolution, the Council will cause the same to be laid;

(f) A designation of the proportion of the cost of the improvement or improvements to be assessed against abutting property, and of the number of equal annual installments in which assessments may be paid. The resolution after its passage shall be published at least once in some newspaper published in the City, or, if there be no such newspaper, the resolution shall be posted in three public places in the City for at least five days.

(12) The City Council shall have power to determine the character and type of construction and of material to be used and to determine any other details of plan or construction necessary to be determined in making any of the improvements authorized by this section and to determine whether any work to be done by the City shall be done by contract or by forces of the City. The Council shall have power also subject to the provisions of subsection 11, paragraph (e) of this section to determine the number of water, sewer and gas laterals that shall be laid to any lot on any street to be improved. If the work or any part thereof is to be done by contract, the City may let all of the work in one contract, or it may divide the same into several contracts, and may let the contracts separately. In any case where part of a street is required to be paved by a street railway or railroad company as provided in the next preceding subsection, the City may, in the discretion of the Council, contract with the street railway or railroad company for the paving, or work incidental thereto, or both, and the cost of the paving or work incidental thereto, or both, as fixed by the contract shall constitute a lien on the franchises and other property of such street railway or railroad company.

(13) Upon the completion of the improvement or improvements to be made by the resolution, the City Council shall ascertain the total cost thereof. In addition to other items of cost, there shall be included in such total cost the cost of all necessary legal services, the amount of damages paid or to be paid for injury to property by reason of any change of grade or drainage, including court costs and other expenses incidental to the determination of such damages, and the cost of retaining walls, sidewalks or fences built or altered in lieu of cash payment for such property damage, including the cost of moving or altering any building. In determining the cost of any street lighting improvement, the Council shall ascertain the excess of cost of construction of the system of lighting over and above the cost of construction of such system of lighting as the City provides at public expense for streets of the same kind, and such excess shall be considered the cost thereof. In determining the cost of any of the improvements authorized by this section, the Council shall include therein the interest paid on the cost of the improvement during the period of construction. The determination of the Council as to the total cost of any improvement shall be conclusive.

(14) Having determined such total cost, the City Council shall thereupon make a preliminary assessment as hereinafter set out in this section. Such preliminary assessment shall, however, be advisory only, and shall be subject to the action of the Council thereon as hereinafter set out in subsection 17 of this section. The preliminary assessment shall be made on the basis hereinafter set out in this subsection for the classes of improvements indicated; provided, that if the petition, or the resolution, in those cases where the improvement was ordered made without petition, specified that there should be specially assessed against the abutting property a smaller proportion of the cost of any improvement than is hereinafter specified in this section, then there shall be assessed against the abutting property only such proportion of the cost of the improvement as was specified in the petition or in the resolution.

(a) Street paving. The total cost of any street paving improvement, exclusive of so much of the cost as is incurred at street intersections and the share of street railways or railroads, shall be specially assessed against the lots and parcels of land abutting directly on the street paved, according to the extent

of their respective frontages thereon, by an equal rate per foot of such frontage. The cost of that part of the paving required to be borne by a street railway or railroad, which paving is done by the City after default by the street railway in making the same, as hereinbefore provided in this section, or which is done by the City by contract with the railway or railroad as provided in subsection 12 of this section, shall be assessed against the street railway or railroad, and the assessment shall be a lien on all of the franchises and property of the street railway or railroad company, and may be collected by sale of such property and franchises as is provided in subsection 23 of this section; Provided, further, that in case of a corner lot, used as a single lot, the Council may provide by ordinance for the City to bear a part of the cost of paving in accordance with the following formula, the amounts or distances therein shown being maximum amounts or distances which may be reduced by the ordinance:

(1) In the event that neither of the streets abutting a corner lot, used as a single lot, has ever been paved, such lot shall be exempt from assessment for the paving improvement along side of such lot to the extent of 20 per cent of the first 150 feet thereof or 30 feet, whichever is less. Thereafter, upon the paving of the intersecting street on which such lot abuts, such lot shall be exempt from assessment for the paving of the street to the extent of 50 per cent of the frontage on such street or 30 feet, whichever is less.

(2) In the event that the street along side of a corner lot, used as a single lot, is paved and the intersecting street is to be paved, such lot shall be exempt from assessment for the paving of the intersecting street to the extent of 50 per cent of the frontage thereon or 30 feet, whichever is less.

(3) In the event a street in front of a corner lot, used as a single lot, has been paved and the street along side of such lot is to be paved, the lot shall be exempt from assessment for the paving improvement along side of such lot to the extent of 40 per cent of the frontage on such street or 60 feet, whichever is less.

The exemption herein provided shall apply only in areas zoned for residential use or for apartments, and such portion of the cost of construction as would otherwise be assessed against such corner lot shall be borne by the City;

(b) Sidewalks. The total cost of constructing or reconstructing sidewalks shall be assessed against the lots and parcels of land abutting on that side of the street upon which the improvement is made, according to their respective frontages thereon by an equal rate per foot of such frontage, the lots within a block being deemed to abut upon a sidewalk although the latter extends beyond the lots to the curb line of an intersecting street; Provided, further, that in case of a corner lot, used as a single lot, the Council may provide by ordinance for the City to bear a part of the cost of sidewalk improvements in accordance with the following formula, the amounts or distances therein shown being maximum amounts or distances which may be reduced by the ordinance:

(1) In the event that neither of the streets abutting a corner lot, used as a single lot, has sidewalks, such lot shall be exempt from assessment for the sidewalk improvement along side of such lot to the extent of 20 per cent of the first 150 feet thereof or 30 feet, whichever is less. Thereafter, upon the construction of sidewalks on the intersecting street, on which such lot abuts, such lot shall be exempt from assessment for the sidewalk improvement on the street to the extent of 50 per cent of the frontage on such street or 30 feet, whichever is less.

(2) In the event that the street along side of a corner lot, used as a single lot, has sidewalks and sidewalks are constructed on the intersecting street, such lot shall be exempt from assessment for the sidewalks on the intersecting street to the extent of 50 per cent of the frontage thereon or 30 feet, whichever is less.

(3) In the event a street in front of a corner lot, used as a single lot, has sidewalks and sidewalks are to be constructed on the intersecting street, the lot shall be exempt from assessment for the sidewalk improvement along side of such lot to the extent of 40 per cent of the frontage thereon or 60 feet, whichever is less.

The exemptions herein provided shall apply only in areas zoned for residential use or for apartments, and such portion of the cost of construction as would otherwise be assessed against such corner lot shall be borne by the City;

(c) Water mains and sewers. In the case of water mains and storm and sanitary sewers, the cost of not exceeding an eight-inch water or sanitary sewer main and of not exceeding a thirty-inch storm sewer main and of such portion of the mains as lie within the limits of the street or streets, or parts thereof, to be improved as provided in the petition or resolution ordering the same, shall be assessed against the abutting property. Such cost shall be assessed against the lots and parcels of land abutting on the street or streets, or parts thereof, according to their respective frontages thereon (i.e., the entire frontage benefited by the water or sanitary sewer project) by an equal rate per foot of such frontage; provided, that in case of a corner lot, used as a single lot, where there is a water main or sewer already laid on the intersecting street on which the lot abuts and by which the lot is or can be served, no assessment shall be made against the lot for the second water main or sewer for any part of the frontage of the lot except that portion in excess of 150 feet if the lot is in a residential section of the City, or in excess of 100 feet if the lot is in a business section of the City, and in such case the portion of the cost as would otherwise be assessed against the lot shall be borne by the City; provided further, that if a water or sanitary sewer main in excess of eight inches in size or a storm sewer main in excess of thirty inches in size is laid in the portion of the street or streets, then the cost of the water or sanitary sewer main in excess of the cost of an eight-inch main and the cost of the storm sewer main in excess of a thirty-inch main shall be borne by the City, provided further, that if the resolution ordered the construction of any septic tank or disposal plant, no part of the cost of the same shall be specially assessed; provided further, that if the resolution ordered the construction of any pumping station, force main or sanitary sewer outfall, the cost thereof may be assessed against the lots and parcels of land abutting on the street or streets, or parts thereof, according to their respective frontages thereon (i.e., the entire frontage benefited by such pumping station, force main or sanitary sewer outfall) by an equal rate per front foot of such frontage; provided, however, in the case of a corner lot, used as a single lot, where there is a sewer already laid on the intersecting street on which the lot abuts and by which the lot is or can be served, no assessment shall be made against the lot for the costs of any pumping station, force main or sanitary sewer outfall incident to the second sewer for any part of the frontage of the lot except that portion in excess of 150 feet if the lot is in a residential section, or in excess of 100 feet if the lot is in a business section, and in such case the portion of the cost as would otherwise be assessed against the lot shall be borne by the City. Nothing contained herein shall be construed to limit the right of the City to

contract with any property owner or owners for the construction of any pumping station, outfall, septic tank or disposal plant or for the construction of water mains or storm or sanitary sewers and for the assessment of the cost thereof according to the terms of such contract;

(d) Water and Sewer Laterals. The entire cost of each water and sewer lateral required to be laid by the owner of the property for or in connection with which such lateral is laid, but laid by the City after default by the property owner in making the same as hereinbefore provided, shall be specially charged against the particular lot or parcel of land for or in connection with which it was made;

(e) Water Mains and Sewers and Laterals; Flat Rate Assessment. In lieu of assessing each water and sanitary sewer improvement project on the basis of the cost of that particular project, the City Council shall have authority to establish flat rates per frontage foot for the assessment of property abutting water and sewer improvement projects, based on the average cost of constructing 8-inch water mains and 8-inch sanitary sewer mains in the City, and shall also have authority to establish flat rates for the assessment of property abutting the installation of water and sanitary sewer laterals, based on the average cost of installing such laterals in the City. The Council may then assess property abutting water and sanitary sewer improvement projects on the basis of the flat rates so established, subject to the right of any nonpetitioning property owner to have the assessment against his property adjusted as provided by law upon a showing that his property has not been benefited to the extent of the assessment;

(f) Grass plots. The entire cost of grading or otherwise improving, or of planting, the grass plots in any street or part thereof, shall be assessed against the lots and parcels of land abutting on the street or part thereof wherein or whereon such improvements are made by an equal rate per front foot of such frontage; provided, that this subsection shall be construed to mean that when a grass plot in any street is graded or planted or otherwise improved, the cost thereof shall be assessed against all of the property abutting on the street within the block where such grass plot is located;

(g) Lighting improvements. The cost of any lighting improvement, such cost being determined as provided in subsection thirteen of this section, shall be specially assessed against the lots and parcels of land abutting directly on the street or streets, or part thereof, where such improvement is made, according to their respective frontage thereon by an equal rate per foot of such frontage;

(h) Water front improvements. The cost of any water front improvement shall be specially assessed against the lots and parcels of land abutting on the improvement according to their respective frontages thereon by an equal rate per foot of such frontage.

(15) For the purpose of assessment, the City Council shall cause to be prepared a preliminary assessment roll, on which shall be entered a brief description of each lot or parcel of land assessed, the amount assessed against each such lot as determined under the provisions of the next preceding subsection, and the name or names of the owner or owners of each such lot, as far as the same can be ascertained; provided, that a general plan map of the improvement or improvements on which is shown the frontage and location of each lot on the street improved, together with the amount assessed against each such lot and the name or names of the owner or owners thereof, as far as the

same can be ascertained, shall be a sufficient assessment roll. If the resolution directed the making of more than one improvement, a single preliminary assessment roll for all of the improvements authorized by such resolution shall be sufficient, but the cost of each improvement to each lot affected shall be shown separately.

(16) After such preliminary assessment roll has been completed, the City Council shall cause it to be filed in the office of the City Clerk for inspection by parties interested, and shall cause to be published one time, in some newspaper published in the City, or if there be no such newspaper the Council shall cause to be posted in three public places in the City, a notice of the completion of the assessment roll, setting forth a description in general terms of the local improvement or improvements, and stating the time fixed for the meeting of the Council for the hearing of objections to the special assessments, such meeting to be not earlier than ten days after the first publication or from the date of posting of such notice. Any number of assessment rolls may be included in one notice. The Council shall publish in the notice the amount of each assessment.

(17) At the time appointed for that purpose or at some other time to which it may adjourn, the City Council shall hear the objections to the preliminary assessment roll of all persons interested, who may appear and offer proof in relation thereto. Then or thereafter, the Council shall either annul or sustain or modify in whole or in part the prima facie assessment as indicated on the roll, either by confirming the prima facie assessment against any or all lots or parcels described therein, or by cancelling, increasing or reducing the same according to the special benefits which the Council decides each of the lots or parcels has received or will receive on account of such improvement, except that assessments against railroads made because of contract or franchise obligations to pay a portion of cost shall be in accordance with such obligations. If any property which may be chargeable under this section shall have been omitted from the preliminary roll or if the prima facie assessment has not been made against it, the Council may place on the roll an apportionment to such property. The Council may thereupon confirm the roll, but shall not confirm any assessment in excess of the special benefits to the property assessed and the assessments so confirmed shall be in proportion to the special benefits, except as hereinabove provided in the case of franchise obligations of railroads. Whenever the Council shall confirm an assessment for a local improvement, the City Clerk shall enter on the minutes and on the assessment roll, the date, hour, and minute of such confirmation, and from the time of such confirmation the assessments embraced in the assessment roll shall be a lien on the property against which the same are assessed of the same nature and to the same extent as county and City taxes and superior to all other liens and encumbrances. After the assessment roll is confirmed a copy of the same shall be delivered to the collector of revenue of the City.

(18) If the owner of, or any person interested in, any lot or parcel of land against which an assessment is made is dissatisfied with the amount of such assessment he may, within ten days after the confirmation of the assessment roll, give written notice to the mayor or clerk of the City that he takes an appeal to the Superior Court of Durham County, in which case he shall within twenty days after the confirmation of the assessment roll serve on the Mayor or Clerk a statement of facts upon which he bases his appeal. The appeal shall be tried as other actions at law. The remedy herein provided for any person dissatisfied

with the amount of the assessment against any property of which he is the owner or in which he is interested shall be exclusive.

(19) If it shall be made to appear to the City Council after confirmation of any assessment roll that any error has been made therein, then the Council shall cause to be published one time in some newspaper published in the City, or if there be no such newspaper the Council shall cause to be posted at three public places in the City, a notice referring to the assessment roll in which such error was made, naming the owner or owners of the lot or parcel of land with respect to which such error was made, if the same can be ascertained, and naming the time and place fixed for the meeting of the Council for the correction of the error, such meeting not to be earlier than ten days from the publication or from the date of the posting of the notice. At the time fixed in the notice or at some subsequent time to which the Council may adjourn, the Council, after giving the owner or owners of the property affected and other persons interested therein an opportunity to be heard, may proceed to correct the error, and the assessment then made shall have the same force and effect as if it had originally been properly made.

(20) The City Council shall have the power, when in its judgment there is any irregularity, omission, error or lack of jurisdiction in any of the proceedings relating thereto, to set aside the whole of the local assessment made by it, and thereupon to make a reassessment. In such case there shall be included, as a part of the cost of the public improvement involved, all interest paid or accrued on notes or certificates of indebtedness, or bonds issued by the City to pay the expenses of such improvement. The proceeding shall, as far as practicable, be in all respects as in the case of original assessments, and the reassessment shall have the same force as if it had originally been properly made.

(21) After the expiration of twenty days from the confirmation of the assessment roll, the Collector of Revenue, or such other officer of the City as the Council may direct so to do, shall cause to be published one time in some newspaper published in the City, or if there be no such newspaper, shall cause to be posted at three public places in the City, a notice that any assessment contained in the assessment roll, naming and describing it, may be paid to him at any time before the expiration of thirty days from the date of publication or posting of the notice, without interest from the date of confirmation of the assessment roll, but that if the assessment is not paid in full within this time, all installments thereof shall bear interest at a rate fixed by the City Council of not more than eight per centum per annum from the date of confirmation of the assessment roll.

(22) The property owner or street railway or railroad hereinbefore mentioned in this section shall have an option and privilege of paying for the improvements hereinbefore provided in cash as provided in the preceding subsection or in not less than twelve equal monthly installments nor more than ten equal annual installments as may have been determined by the original resolution ordering the improvement or improvements. Nothing in this subsection shall preclude the payment of assessments in advance of the maturity or installment schedule affixed by the City Council. If paid in installments, such installments shall bear interest at a rate fixed by the City Council of not more than eight per centum per annum from the date of the confirmation of the assessment roll. If any assessment is not paid in cash, the first installment thereof with interest thereon shall become due and payable thirty days after the

publication or posting of the notice required by the preceding subsection and one subsequent installment and interest thereon shall be due and payable on the same day of the same month in each successive year until the assessment is paid in full; provided, however, that if the Council shall so direct such installments shall become due and payable on the same date when property taxes of the City are due and payable. If any installment with interest thereon is not paid when due, it shall be subject to the same penalties as are now prescribed by law for unpaid taxes, in addition to the interest herein provided for. The whole assessment may be paid at any time by the payment of the full amount due with accrued interest.

(23) In case of the failure of any property owner or street railway or railroad company to pay any installment when the same shall become due and payable, then and in that event all of the installments remaining unpaid shall immediately become due and payable, and the property and franchises may be sold by the City under the same rules, regulations, rights of redemption and savings as are now prescribed by law for the sale of land for unpaid taxes. Collection of such assessments with interest and penalties, may also be made by the City by proceedings to foreclose the lien of assessments as a lien for mortgages is or may be foreclosed under the laws of the State, and it shall be lawful to join in any bill for foreclosure any one or more lots or parcels of land, by whomsoever owned, if assessed for an improvement ordered by the same resolution. After default in the payment of any installment, the payment of the installment, together with interest and penalties due thereon, before the lot or parcel of land, against which the same is a lien, is sold or the lien is foreclosed as hereinbefore provided, shall bar the right of the City to sell the land or to foreclose the lien thereon by reason of the default.

(24) If the resolution ordering the making of any improvement or improvements included a provision for any necessary extension of a water main or sewer or sewers, as provided in subsection eleven, paragraph (d), of this section, at such time after the completion of the extension or extensions as, in the judgment of the City Council, circumstances justify the assessment of the cost thereof, the Council shall cause a preliminary assessment to be made as provided in subsection fourteen, paragraph (c), of this section, and the procedure thereafter to be followed with respect to such assessment and the force and effect thereof shall be as already prescribed in this section.

(25) After any lighting improvement is made as provided in this section, the City is hereby authorized, as long as the lighting system shall be maintained, to make an annual assessment against the lands assessed with the original cost of the improvement sufficient to cover the excess of actual cost of maintenance and operation of the lighting system over and above the cost of maintenance and operation of such system of lighting as the City provides at public expense for streets of the same character as that whereon the lighting improvement is made. To that end the City Council shall cause to be prepared a preliminary assessment which shall, as far as practicable, conform to the requirements of subsection fourteen, paragraph (g), of this section; and the procedure thereafter to be followed with respect to such assessment and the force and effect thereof shall be as already prescribed in this section.

(26) When any special assessment has been made against any property for any improvement authorized by this section, and it is desirable that the assessment be apportioned among subdivisions of the property, the City Council shall have

authority, upon petition of the owner of the property, to apportion the assessment fairly among the subdivisions. Thereafter, each of the subdivisions shall be relieved of any part of such original assessment except the part thereof apportioned to the subdivision and the part of the original assessment apportioned to any such subdivision shall be of the same force and effect as the original assessment. The provisions of this subsection shall not be construed to limit authority granted elsewhere in this Charter or by general or special law to apportion assessments among subdivisions of property without requiring a petition from or the consent of the owners of such property.

(27) No change of ownership of any property or interest therein after the passage of a resolution ordering the making of any improvement authorized by this section shall in any manner affect subsequent proceedings, and such improvement may be completed and assessments made therefor as if there had been no change in such ownership.

(28) No lands in the City shall be exempt from special assessment as provided in this section except lands belonging to the United States; and the City Council and the officers, trustees or boards of all incorporated or unincorporated bodies in whom is vested the right to hold and dispose of real property shall have the right by authority duly given to sign the petition for any local improvement authorized by this section. Provided, however, that assessments against land owned by the State of North Carolina are controlled by the provisions of G.S. 160A-221. Provided further, that, except as provided by this section, assessments against railroads are controlled by the provisions of G.S. 160A-222.

(29) All proceedings for special assessment under the provisions of this section shall be regarded as proceedings *in rem*, and no mistake or omission as to the name of any owner or person interested in any lot or parcel of land affected thereby shall be regarded a substantial mistake or omission.

"Sec. 78. *Assessments for Local Improvements without Petition.*—(1) Supplemental to and independent of the powers and authority heretofore or hereafter granted the City by the General Assembly, the City Council is authorized and empowered without the necessity of having a petition filed by the owners of abutting property, to construct and install or contract for the construction and installation of paving, repaving, macadamizing, and remacadamizing of any of the public streets, sidewalks, and alleys, and the construction, reconstruction and altering of curbs, gutters, and drains in any of the public streets and alleys, and the construction and installation of sanitary sewers, water mains, and sanitary sewer and water laterals in any of such public streets and alleys, and specially assess the entire cost of such construction and installation, except the part thereof as is incurred at street intersections, against the property abutting upon the street or alley or streets or alleys which are so improved.

The City Council is further authorized and empowered without the necessity of having a petition filed with it, to open, clear, grade, construct drainage and otherwise improve streets, avenues, and alleys which have been dedicated to public use by making and recording in the office of the register of deeds a map or plat designating such streets, avenues or alleys thereon, and to specially assess the entire cost of such opening, clearing, grading, construction of drainage and other improvements to such streets, avenues or alleys against the property abutting upon such streets, avenues or alleys so opened and improved.

The City Council may specially assess less than the total cost against the abutting property if it should determine by resolution that it would be inequitable to specially assess the entire cost thereof; and in determining whether it would be inequitable, the City Council is authorized to take into consideration the location, width, use and general importance of such street or alley as it relates to the public welfare, safety, health, and convenience.

(2) When it is proposed to make without petition any improvement or improvements described in subsection (1) hereof, the City Council shall adopt a resolution which shall contain substantially the following:

(a) That this proceeding is taken under and will be governed by the provisions of this Charter (stating the number of the Chapter and Section);

(b) A statement of the reasons proposed for the making thereof;

(c) A brief description of the proposed improvement or improvements;

(d) The proportion of the cost of the improvement or improvements to be specially assessed and the terms of payment;

(e) A notice of the time and place when and where a public hearing will be held on the proposed improvement or improvements. (The time fixed for the public hearing shall be such as to allow of notice being given thereof not less than ten days prior thereto.);

(f) A notice that all objections to the legality of the making of the proposed improvement or improvements shall be made in writing, signed in person or by attorney, and filed with the City Clerk at or before the time of such hearing, and that any such objections not so made will be waived.

The resolution shall be published one time in a newspaper published in the City, the date of publication to be not less than ten days prior to the date fixed for the hearing.

(3) In the event the City Council elects to proceed under this section to make local improvements and specially assess the cost thereof against abutting property without the filing of a petition therefor, as is authorized by this section, and does adopt the resolution provided for in subsection (2), then and in such event, the procedure applicable to such proceedings from that point to the final completion of the improvement, the final confirmation of the assessment roll, and the remedies available, shall be as particularly set forth and provided in subsections (10), (11), (12), (13), (14), (15), (16), (17), (18), (19), (20), (21), (22), (23), (24), (26), (27), (28), and (29) of Section 77 of this Charter.

(4) When electing to make local improvements and specially assess the cost thereof upon abutting property, without petition therefor, as authorized by this section, the City Council shall specially state in the resolution adopted as provided in subsection (2) hereof that it is proceeding under and by virtue of the provisions of this section of the City Charter.

"Sec. 79. *Apportionment of Assessments Among Lots in Subdivisions.*— (1) In any case where one or more special assessments shall have been made against any property for any local improvement or improvements authorized by General or Special Law, and the property shall thereafter be subdivided or about to be subdivided and it is, therefore, desirable that the assessment or assessments be apportioned among the subdivision of such property, the City Council may, without requiring any petition or consent from the property owners or other persons affected thereby, apportion the assessment or assessments, or the total thereof, fairly among such subdivisions, as same are benefited by the improvement and release such subdivisions, if any, as in the opinion of the City

Council are not benefited by the improvement. Upon the making of such a reapportionment and reallocation, each of the subdivisions shall be relieved of any part of the original assessment or assessments except the part thereof apportioned to a specific lot, parcel, or subdivision, and the part of the original assessment or assessments apportioned to any such lot, parcel, or subdivision shall be of the same force and effect as to such lot, parcel, or subdivision to the extent of the amount and interest thereon apportioned to the lot, parcel, or subdivision as the original assessment or assessments were prior to the making of such reapportionment. The making of such an apportionment by the City Council shall be by resolution, which resolution shall set forth the manner and extent of the reapportionment with sufficient clarity to enable the office of the City Collector of Revenue to correctly and accurately reflect such reapportionment upon the records of the assessment account or accounts in his office. Such reapportionment or reassessment may include past due installments of principal, interest, and penalty, if any, as well as assessments not then due, and the remaining installments shall fall due.

(2) When it is proposed to make a reapportionment of such assessments as authorized by this section, the City Council shall adopt a preliminary resolution which shall contain substantially the following:

(a) A brief description or statement of the location of the property affected;

(b) The total principal amount of the assessments involved in the proposed reapportionment, together with a brief statement showing the date of confirmation and the kind and character of the assessments.

(c) A notice of the time and place when and where a public hearing will be held on the question of making a reapportionment or reassessment of the assessments, and the extent thereof. (The time fixed for the public hearing shall be such as to allow of notice being given thereof not less than two weeks prior thereto).

The resolution shall be published once a week for two successive weeks in some newspaper published in Durham County, the first publication to be at least two weeks prior to the public hearing. At the time for the public hearing, or at some subsequent time to which the hearing shall be adjourned, the City Council shall consider all objections which may be made to the making of such reapportionment, and shall thereafter determine whether it will make the reapportionment and the manner and extent to which the reapportionment of assessments will be made. The final decision of the City Council shall be in the form of a resolution making the apportionment, which resolution shall set forth all of the facts and pertinent provisions mentioned and required by subsection (1) of this section.

"Sec. 80. *Condemnation and Assessment Authority Outside the Corporate Limits.*—Supplemental to and independent of any other power and authority possessed by the City, the City Council shall have the right and power to acquire rights-of-way, easements, and other property outside its corporate boundaries in the exercise of the power of eminent domain in the same way and under the same authority and procedures as it has the power to acquire such rights-of-way, easements and property inside the corporate boundaries, provided that nothing herein shall be construed to enlarge the power of the City to condemn property already devoted to public use. The City Council shall also have the power and authority, in the extension, installation, construction, operation, and

maintenance of its water and sewerage facilities outside of its corporate boundaries to serve the area inside or outside of its corporate boundaries, to create water and/or sewer benefit assessment districts and to specially assess the cost of such water or sewer installations or construction against the property in such benefit assessment districts on the basis of the front foot rule, the benefits derived or to be derived by the property in such assessment districts, or some other equitable method promulgated and established by the City Council in the exercise of its sound legislative discretion.

"Sec. 81. *Additional Assessment Authority.*—In exercising the authority granted under Article 16 of Chapter 160A of the North Carolina General Statutes to extend and operate public enterprises outside its corporate limits, the City Council may specially assess all, or part, of the costs of constructing, reconstructing, extending, building or improving water supply and distribution systems or sewage collection and disposal systems or both such systems, or any part thereof, outside the corporate limits of the City against property benefited therefrom; provided, however, no special assessment shall be levied until a petition which meets the requirements set forth in Section 77, subsection (7) of this Charter has been submitted to the City by the owners of the property affected. Special assessments levied pursuant to this section shall be levied and collected in the same way and under the same authority and procedures as special assessments levied and collected by the City upon property within the corporate limits.

"Sec. 82. *Lien Affixed for Water and Sewer Service.*—(1) In addition to any other powers and authority heretofore granted by General Law, local act or this Charter, the City Council is hereby authorized and empowered to provide water service or sewer service or both such services to property, within or without the corporate limits, abutting existing City water or sewer mains or the right-of-way thereof and affix a lien to the property for the cost of providing this service.

(2) The authority granted by this section shall be exercised only upon petition by the owner or owners of such abutting property. Such petition shall be upon a form approved by the City Council and shall contain:

(a) a description of the service or services requested, and

(b) a description of the property to be served, and

(c) the anticipated cost of furnishing such services, and

(d) the terms of payment by such property owner for the costs incurred by the City in furnishing such service, including but not limited to, the number of installments in which payment shall be made and the interest rate to be applied to any unpaid balance, and

(e) such other information as may be required by the City Council.

(3) The City Council may approve or deny any such petition submitted. If any such petition shall be approved by the City Council, the City Clerk shall mark upon the face of such petition such words as shall indicate such approval by the City Council, and the date and time of the approval.

(4) From and after approval of any petition submitted pursuant to this section, a lien in favor of the City shall exist upon the property described in such petition for the amount stated in such petition as the anticipated cost of furnishing such service. Such lien shall be inferior to all prior and subsequent federal, State and county tax liens of record but superior to all others. This lien may be collected by foreclosure in the same manner as provided by law for the foreclosure of liens for special assessments. Any foreclosure proceeding instituted

pursuant to this section shall be deemed a proceeding *in rem* and no mistake or omission as to the name of any owner or person interested in any lot or parcel of land affected thereby shall be regarded a substantial mistake or omission. No change of ownership shall affect any lien created pursuant to this section.

(5) Payment of the anticipated costs of providing service shall be as prescribed by the terms of the petition approved by the City Council. If any installment payment due and payable under the terms of the approved petition shall be unpaid for a period of 30 days or more, then all subsequent installment payments shall become due and payable and proceedings as set forth in subsection (4) herein may be instituted.

(6) If the City Council shall determine that the actual costs of furnishing the services provided for in any approved petition shall have exceeded the amount originally stated in such petition as the anticipated costs of providing such services, the City Council may, by resolution, amend the approved petition to set forth the correct cost. The City Council's determination of such actual cost shall be deemed conclusive. Upon amendment as provided by this subsection, the petition shall be deemed effective as if originally submitted with the amended cost set forth therein. The City Council may provide for payment of any such increased amended cost, by increasing the amounts of any unpaid installments due under the original approved petition. A copy of any resolution enacted pursuant to this subsection shall be mailed or personally delivered to the owner or owners of such property at their last known address.

(7) Any petition approved by the City Council and any amendment thereof shall be filed in the office of the City Clerk. The City Clerk shall forward a copy of any such petition or amendment to the Collector of Revenue. The Collector of Revenue shall maintain a record of such approved petitions and amendments thereof and such records shall be available to public view during regular business hours.

(8) If the actual cost of providing the services requested in any approved petition shall be less than the costs set forth in such petition as anticipated costs, the City Council may order such excess deposited in the water and sewer fund of the City for the use of the City or may order such excess paid to the owner or owners of the property set forth in such petition as their respective interests may appear. Provided, however, any anticipated cost set forth in the approved petition which shall have been determined under any schedule of charges approved by the City Council shall, for the purpose of this section, be deemed the actual cost of providing such service.

"ARTICLE 8. Acquisition and Disposal of Property.

"Sec. 83. *Public Buildings.*—The City is authorized to erect, repair and alter all public buildings.

"Sec. 84. *Public Contracts.*—(1) The statutory amounts in G.S. 143-129, relating to the awarding of public contracts, are amended so that the City Council, in awarding public contracts for the purchase of apparatus, supplies, materials, or equipment, is subject to the provisions of G.S. 143-129 only when such purchase requires an estimated expenditure of public funds in an amount equal to or more than five thousand dollars ($5,000).

(2) The provisions of G.S. 143-129 are further amended to the end that the City Council may consider a bid, and award a contract on such bid, notwithstanding the fact that the required bid bond does not provide for double payment by the surety to the City.

"Sec. 85. *Purchase of Parts for Specialized Equipment.*—Purchase of parts, apparatus and materials necessary to properly maintain and keep in repair specialized equipment of the City may be made after obtaining informal bids therefor, unless there is only one known manufacturer or supplier of such desired article, in which case an informal bid from such manufacturer or supplier shall be sufficient. This authority may be exercised without regard to the maximum limits or the requirement for advertising for bids as set forth in G.S. 143-129 and G.S. 143-131. It shall be the duty of the purchasing agent or other authorized employee or department to keep a record of all such informal bids submitted, and such record shall be subject to public inspection.

"Sec. 86. *Public or Private Sale of Property.*—The City Council may, upon the affirmative vote of at least seven members of the City Council, publicly or privately sell, lease, rent, exchange or otherwise convey, or cause to be publicly or privately sold, leased, rented, exchanged or otherwise conveyed, any property, real or personal, or any interest in such property, belonging to the City.

"ARTICLE 9. Planning and Zoning.

"Sec. 87. *Surveys and Studies.*—(1) The City Council is hereby authorized to appropriate and expend public funds for use in connection with making surveys and studies and for the purpose of defraying other reasonable expenses in cooperating with the County of Durham or any of its agencies in zoning and planning matters outside of but near enough to the corporate boundaries of the City or the City's extraterritorial jurisdiction boundary as to affect the salutary operation and effect of the planning and zoning regulations and uses existing within the City and the growth of the City or as may reasonably be expected or anticipated to affect the same in the future.

(2) The purpose and uses herein mentioned are hereby declared to be public uses and public purposes.

"Sec. 88. *Expenditure of Bond Funds for Planning in Anticipation of Annexation.*—On and after the approval by the voters of the City who vote thereon for ordinances authorizing the issuance of bonds for the purpose of raising revenues to defray the costs and expenses of the construction of water and sewer lines, water and sewer treatment and disposal facilities, outfalls, fire stations, and any other capital facilities, and the acquisition of sites, lands and rights-of-way, the City Council shall have full power and authority, in its discretion, to expend from such funds amounts which may be necessary to acquire sites and rights-of-way for such facilities outside and beyond the then corporate limits of the City within the area proposed to be annexed, and for engineering and planning, even though an annexation ordinance has not then been adopted and the proposed area to be annexed has not actually been annexed. The authority granted by this section is supplementary of authority granted by general law and this Charter and not in derogation thereof.

"Sec. 89. *Enactment of Ordinances Prior to Effective Date of Annexation.*—The City Council and the Planning and Zoning Commission of the City are hereby authorized and empowered, after the passage of an annexation ordinance and prior to the date upon which the territory described therein is actually annexed to the City, to initiate, hold hearings upon, adopt resolutions providing for public hearings, conduct public hearings upon such resolutions, petitions, proposals and ordinances and the Council is further empowered to enact zoning ordinances, for the determination of zone boundaries and allocation of the area into zoning, classifications and districts, and the application of zoning

regulations and restrictions, to be applicable to the territory described in the annexation ordinances to be annexed. But no such establishment of zone boundaries or any zoning regulations or restrictions in such annexed territory described in the annexation ordinances shall be effective until the effective date upon which the area is actually annexed to the City as provided in the annexation ordinances, but at that time such zoning regulations and restrictions and boundaries shall simultaneously become effective with such annexation.

"Sec. 90. *Amortization of Non-Conforming Uses.*—In exercising the zoning power granted to municipalities by G.S. 160A-381, the City Council shall have and is hereby granted power and authority to provide by ordinance for the amortization and phasing out of non-conforming buildings and uses upon such reasonable terms and provisions, including a period of time, as to it seems just and proper.

"Sec. 91. *Regulation of Town Houses.*—The City Council shall have, and is hereby granted, power and authority to provide and require by ordinance that special types of dwellings such as those known as 'town house' or of similar category be required to have an organized home ownership or similar association to assist in the orderly regulation and policing of such 'town houses' or similar category, on such reasonable terms and regulations as the Council may promulgate.

"Sec. 92. *Development Plans and Site Plans.*—In exercising the zoning power granted to municipalities by G.S. 160A-381, the City Council may require that a development plan showing the proposed development of property be submitted with any request for rezoning of such property. The City Council may consider such development plan in its deliberations and may require that any site plan subsequently submitted be in conformity with any such approved development plan.

In addition, the Council is authorized to require that a site plan be submitted and approved prior to the issuance of any building permit. The Council may specify the information to be set forth in a site plan and may require that such site plan be prepared by a professional engineer, architect, or land surveyor licensed to practice in North Carolina. The Council may prescribe procedures for the review of such site plans to insure that development of property shall conform to applicable zoning and building laws and regulations or any other relevant law or regulation. The Council may require that site plans be in conformity with previously approved development plans for the same property.

"Sec. 93. *Board of Adjustment.*—(1) The City Council is authorized to provide for the appointment and compensation of a Board of Adjustment consisting of five members (exclusive of additional members appointed to represent residents of the Extraterritorial Area pursuant to G.S. 160A-362), each to be appointed for three years.

(2) The concurring vote of three fifths of the members of the Board shall be necessary to reverse any order, requirement, decision, or determination of any administrative official charged with the enforcement of the City zoning ordinance, or to decide in favor of the applicant any matter upon which it is required to pass under the City zoning ordinance, or to grant a variance from the provisions of such ordinance.

"Sec. 94. *Notice of Public Hearings.*—Before adopting or amending any ordinances authorized by Article 19 of Chapter 160A of the General Statutes, the City Council shall hold a public hearing in accordance with G.S. 160A-364,

except that notice of such public hearing shall be published the first time not less than 10 days nor more than 25 days before the date fixed for the hearing.

"ARTICLE 10. Subdivision Regulations.

"Sec. 95. *Opening of New Subdivisions.*—The City Council is authorized to provide that no individual, corporation, association, or partnership shall open or lay out new streets, or sell lots abutting the same without first having had a plat of the proposed street or streets made and submitted to the City Council and approved and accepted by the Council. The Council may pass all necessary ordinances to regulate and control the opening of streets and alleys in the City.

"Sec. 96. *Filing of a Duplicate Map or Plat.*—Any person, firm, or corporation filing or recording with the Register of Deeds of Durham County, any map or plat of a subdivision of land in the City shall, at the time of the filing or recording of same with the Register of Deeds of Durham County, furnish the Register of Deeds with a copy thereof for the use of the City. All such copies of maps or plats of subdivisions which shall be filed with the Register of Deeds of Durham County shall be certified by the Register of Deeds, stating the time when recorded and the Plat Book and page number where such maps or plats were recorded, and shall be delivered by the Register of Deeds to the City Manager.

"Sec. 97. *Enactment of Subdivision Controls.*—(1) For the purpose of promoting the health, safety, morals, convenience, economy, and general welfare of the City; the well-ordered establishment and growth of a system of public streets, alleys, and thoroughfares; the more convenient transportation and access by means of streets, avenues, alleys, and public ways in the City and its environs; the quicker and more effective use of the street system in the fighting of fires and extension of police protection; the prevention of the over-crowding of lands with buildings with resulting increase of density of population within a small area; to require the reasonable separation of buildings from each other for such distances as may be required to lessen the danger of spreading conflagration; to facilitate the proper laying, maintaining and operating of water mains and sewer mains and the installation and maintenance of other public utilities so as to serve the residents and commercial houses and manufacturing plants of the City in a more economical, practical, orderly and efficient manner; and for other general welfare, health and safety purposes, the City Council is hereby authorized and fully empowered to regulate the establishment, dedication, location and dimensions of any proposed public street, alley, or other public way, and the subdivision, rearrangement, or platting of the boundaries of lots or parcels of real property when any such real property is located in whole or in part upon any existing or proposed public street, alley, avenue, boulevard, or other public way within the corporate limits of the City or within the extraterritorial jurisdiction of the City, upon or through or by means of which existing or proposed public street, alley, avenue, boulevard or other public way the City now provides, or may in the future provide either grading, paving, curbs, gutters, drainage, public sewer or water facilities, street lighting, police and fire protection, or any other municipal service or facility.

(2) The City Council is authorized and empowered to adopt ordinances setting up and establishing standards and requirements with which all subdivisions and rearrangements of the boundaries of the land and maps and plats thereof thereafter made shall comply; and adopt ordinances setting up and establishing standards and requirements for the location, dedication, and

dimensions of all proposed streets, alleys, and other public ways, and such other matters as affect or will affect the public convenience, safety and general welfare; and adopt ordinances requiring that streets and public ways shall be graded, curbed and guttered, paved, drainage, sidewalks, street lights and signs installed, and water, sewer, and other utility mains and connections be installed, or such of the facilities and the extent and manner of such improvements as may be determined from time to time by the Council to be in the public interest, and such ordinances may provide that, in lieu of the completion of such work and installations previous to the final approval of a plat or map, the Council may authorize the filing of a bond in an amount and with surety and conditions satisfactory to it providing for and securing to the City the actual construction and installation of such improvements and utilities within a period specified by the Council and expressed in such bond or other approved undertaking, which bond or other undertaking may be enforced by the City by all appropriate legal and equitable remedies and proceedings, all as a condition precedent to the approval of maps and plats of such subdivisions within the area referred to in subsection (1) of this section. In adopting ordinances fixing standards and requirements the Council is hereby specifically authorized and empowered to include any or all of the following provisions, namely: Adopt a plan of major thoroughfares and collector streets and require that all new streets or enlarged streets shall conform to the same where such plan is applicable, both as to location and width; to provide for the minimum width of alleys, avenues, neighborhood streets, collector streets, and major thoroughfares; to require the dedication of alleys and determine minimum width thereof, which requirement may vary as between residential and business property, as between property fronting on major thoroughfares and that not fronting on such thoroughfares, and as between blocks in which the lots are small and blocks in which lots are larger, and in such other cases and circumstances as the Council may find to be in promotion of the public safety, convenience and welfare; to require dedication of easements in the rear of lots, or in such other parts of such lots as may be more appropriately applicable in any given case, for the location of poles, wires, conduits, storm or sanitary sewers, gas, telephone and water lines, or other public and quasi-public utilities, due consideration of all factors so as to work the least practical hardship or difficulty upon the lot or the owners thereof to be considered in locating the easements upon the lots; to provide for the minimum and maximum length and width of blocks of land between intersecting streets; to provide that the lot side lines shall be radial to the street line; to require that the lines and frontages of buildings on corner lots shall be such as to prevent the rear of the building on a corner lot from protruding beyond the building setback line of the building fronting on a street which constitutes a side of such corner lot; to regulate and prescribe the arc and radius and layout of property lines at all intersecting streets, having regard for traffic hazards, congestion and other pertinent factors involved; to regulate and prescribe conditions and safeguards under which dead-end streets and cul-de-sacs may be authorized; to prohibit street offsets at intersections or permit such street offsets under conditions which may be prescribed; to establish building setback lines and when established to require that they be properly shown and designated on the map or plats of such subdivisions of property; to regulate and prescribe conditions under which reserve strips in subdivisions or shown on plats thereof controlling access to public ways may be used or set apart; to provide for the naming of public

streets and other public ways; to require that permanent monuments of stone or concrete of dimensions which may be prescribed be set at all block corners and at all corners in the exterior boundary of any subdivision and that the location thereof be clearly set forth and designated on the final approved plat, and to provide that all lot corners be staked by metal stakes or other approved stakes; to require that street lines deflecting from each other within a block be connected by a curve, the radius of which shall be determined after considering the factors of sight distance, the type and importance of street, anticipated traffic volume, and convenience of traffic movement; to require that the arrangement and location of streets and other ways in new subdivisions shall make provision for continuation of the principal existing streets and other ways in adjoining subdivisions, or their proper projection when adjoining property is not subdivided; to require that a preliminary plat shall be furnished the planning division or other department designated by the Council for preliminary checking to determine whether the preliminary plat is in compliance with the ordinances and requirements established by the Council; to provide that a final plat be prepared and submitted and contain compliance with all of the provisions of the ordinances and be so marked on its face before the same may be filed for record; to provide that no street shall be accepted or maintained by the City, nor shall any public utility such as water, sewer, or street lighting be extended to or connected with any subdivision of land, nor shall any permit be issued by any administrative official or department of the City for the construction of any building or improvement requiring a permit, upon any land concerning which a plat may be required by such ordinance until the requirements of such ordinance have been complied with; and to provide such other details as may be found, in the legislative discretion of the Council, to have a substantial relation to the public convenience, health, safety, or welfare; to require that such plat or map be finally approved as being in compliance with the ordinances adopted by the Council before such map or plat of such subdivision shall be entitled to be filed or recorded in the office of the register of deeds of Durham County and to require that all such approved plats and maps of subdivisions of real estate be recorded or filed in the office of the register of deeds of Durham County in which such lands are situate; to provide that the violation of the provisions of such ordinances shall subject the person violating the same, including the surveyor, to penalties, upon conviction, not exceeding a fine of fifty dollars ($50.00). The enumeration of the above mentioned circumstances and things shall not be exclusive.

(3) The City Council may provide for the appointment of a board to be known as a Subdivision Review Board consisting of not less than four nor more than six members who shall serve without pay as such members, each of whom shall be appointed by the Council for a term of years or for a term at the will of the Council, as may be determined by the Council; in the event the Council appoints such Board for a term of years, the term of office of each member shall be three years. Such Subdivision Review Board shall hear and decide appeals from and review any order, requirement, decision or determination made by any administrative official charged with the enforcement of any ordinance adopted pursuant to this section. It shall also hear and decide all matters referred to in or upon which it is required to pass under any such ordinance. The affirmative vote of a majority of members of the Board shall be necessary to reverse any order, requirement, decision, or determination of any administrative official, or to

decide in favor of the applicant any matter upon which it is required to pass under any such ordinance or to effect any variation in any of the provisions of such ordinance. Every decision of such Board shall, however, be subject to review by proceedings in the nature of certiorari. Such appeal may be taken by any person aggrieved or by an officer, department, board or bureau of the City. Such appeal shall be taken within such time as shall be prescribed by the Subdivision Review Board by general rule, by filing with the officer from whom the appeal is taken and with the Subdivision Review Board a notice of appeal, specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all of the papers constituting the record upon which the action appealed from was taken. An appeal from the administrative official to the Subdivision Review Board stays all proceedings in furtherance of the action appealed from until the decision of the Subdivision Review Board is rendered, at which time the stay of proceedings shall cease, unless the proceedings shall be further stayed by a restraining order granted by a court of record or by the Subdivision Review Board. The Subdivision Review Board shall fix a reasonable time for the hearing of the appeal from the administrative official and shall give due notice thereof to the parties, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney. The Subdivision Review Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, action or determination appealed from, and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises, and to that end shall have all of the powers of the officer from whom the appeal is taken. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of such ordinances, the Subdivision Review Board shall have the power, in passing upon appeals, to vary or modify any of the regulations or provisions of such ordinances relating to subdivisions, plats, maps, and all other requirements of the ordinance, in harmony with the general purpose and intent of this section, so that the spirit of the ordinance may be observed, public safety, convenience, and welfare secured and substantial justice done.

(4) In case any person, firm, or corporation shall violate any of the provisions of any ordinance which may be adopted by the City Council under the authority of this section, or is about to violate such provision, the City, in addition to other remedies, may institute any appropriate action or proceedings in its name in the Superior Court to prevent and restrain such unlawful act or violation or the continuance thereof.

(5) This section is enacted in the exercise of the police power of the State of North Carolina, and the power and authority hereby delegated to the City Council to adopt ordinances and to require compliance with such ordinances, including the dedication of alleys and easements for utilities as authorized, shall be deemed to be an exercise by the City Council of the police powers delegated to it, and shall not be deemed to be an exercise of the power of eminent domain which may be possessed by the City.

(6) It is the legislative intent that if any portion, clause, or sentence of this section shall be deemed to be invalid or unconstitutional, such declaration of invalidity shall not affect the remaining portions of this section, which would have been passed notwithstanding the invalidity of such portions which may be declared invalid.

"Sec. 98. *Dedication or Reservation of Recreation Areas.*—(1) In adopting any subdivision control ordinance pursuant to provisions of this Charter or G.S. 160A-372, the City Council is authorized to provide for the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision, or to provide for the payment in lieu thereof of such sum of money as the Council may determine to be the equivalent in value of any such recreation area.

(2) The Council may use any monies received in lieu of dedicated recreation areas for acquiring recreation areas beyond the boundaries of the immediate subdivision but within the neighborhood wherein the subdivision lies.

"ARTICLE 11. Regulation of Buildings and Housing.

"Sec. 99. *Building Inspections.*—The City Council is authorized to establish rules and regulations providing for all necessary inspections within the City, whether of buildings or otherwise, and to order and compel the removal of dangerous materials or dangerous or defective buildings.

"Sec. 100. *Action Against Unsafe Buildings.*—The powers granted to the City by Part 5 of Article 19, Chapter 160A of the General Statutes, shall extend to buildings which are in such condition as to be a fire or safety hazard, or which are a public nuisance.

"Sec. 101. *Board of Building Appeals.*—(1) The City Council shall have power to provide for the creation and organization of a Board of Building Appeals to which appeals may be taken from the decision of the building inspector upon any provision of the building code of the City. Such board shall consist of five members, each to be appointed for a term of three years, except the first members appointed by authority hereof, one of whom shall be appointed for one year, two for two years and two for three years. Such board shall have power to elect its own officers, to fix the time and places for its meetings, to adopt necessary rules of procedure and to adopt all other rules and regulations not inconsistent herewith which may be necessary for the proper discharge of its duties; and it shall keep an accurate record of its proceedings. An appeal from any decision or order of the building inspector may be taken by any person aggrieved thereby or by any officer, board or commission of the City. Any appeal from the building inspector to such Board shall be taken within such reasonable time as shall be prescribed by the Board by general rule and shall be taken by filing with the building inspector and with the clerk or secretary of the Board, or with such other person as may be designated by the Board, a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of any such notice of appeal, the building inspector shall forthwith transmit to the Board all the papers constituting the record upon which the decision appealed from was made. When any such appeal is from a decision of the building inspector refusing to allow the person aggrieved thereby to do any act, such decision of the building inspector shall remain in force until modified or reversed by the Board as hereinafter provided. When any such appeal is from a decision of the building inspector requiring the person aggrieved to do any act, such appeal shall have the effect of suspending the requirements of the building inspector until the hearing thereon by the Board unless the building inspector certifies to the Board, after the notice of appeal shall have been filed with him, that by reason of the facts stated in the certificate (a copy of which certificate shall be furnished the appellant), a suspension of his requirement would, in his opinion, cause imminent peril to life or property, in which case such

requirement shall not be suspended except by a restraining order, which may be granted for due cause shown and upon not less than one day's written notice to the building inspector, by the Board or by any judge of the superior court authorized by law to grant restraining orders. The Board shall fix a reasonable time for the hearing of all appeals and shall decide the same within a reasonable time. Upon the hearing of any appeal any party may appear in person or by agent or attorney. The Board of Building Appeals may reverse or affirm, wholly or partly, or may modify the decision appealed from, and may make such decision and order as in its opinion ought to be made in the matter, and to that end it shall have all the powers of the building inspector; provided, that the concurring vote of four members of the Board shall be necessary to reverse or modify any decision of the building inspector. In passing upon appeals, the Board shall have power not only to determine whether the decision of the building inspector is made upon a proper construction of the pertinent provisions of the building code, but it shall have power also to allow materials and methods of construction other than those required by the building code to be used when in its opinion such other materials and methods of construction are as good as those required by the code; and for this purpose the requirements of the building code as to such matters shall be considered simply as a standard to which construction shall conform. The Board shall have power also in passing upon appeals, in any case where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the building code, to adapt the application of the code to the necessities of the case to the end that the spirit of the code shall be observed, public safety and welfare secured and substantial justice done. Every decision of the Board shall be subject to review by the Superior Court of Durham County.

"Sec. 102. *Housing Appeals Board.*—In exercising the authority to provide for creation and organization of a Housing Appeals Board, conferred upon municipalities by G.S. 160A-446, the City Council may, by ordinance, authorize such Housing Appeals Board to adopt ordinances ordering the building inspector to proceed to effectuate the purposes of Article 19, Chapter 160A, as provided in G.S. 160A-443(5), with respect to any particular property or properties which the building inspector shall have found to be unfit for human habitation and which property or properties shall be described in such ordinance, without the necessity of further action by the Council.

"ARTICLE 12. Recreation and Cultural Activities.

"Sec. 103. *Regulation of Parks and Squares.*—The City Council is authorized to adopt such ordinances for the regulation and use of the streets, squares and parks and other public property belonging to the City as the City Council may deem best for the public welfare of the citizens of the City.

"Sec. 104. *Public Concerts.*—The City Council is authorized to appropriate annually reasonable sums for public concerts.

"Sec. 105. *Operation of a Theatre and Moving Picture Theatre.*—The City Council is authorized to purchase and install such equipment, apparatus, machines, furniture and any and all other fixtures and things found necessary to properly equip, provide, operate and conduct a theatre, or moving picture theatre or both, in the Academy of Music; to conduct and operate such a theatre, or moving picture theatre, or both, in such building; to lease, rent, or otherwise contract for the operation of such a theatre or moving picture theatre, or both, in such building; to make all such rules and regulations in relation to

the operation of such a theatre, or moving picture theatre, or both, in such building, as may be necessary and proper; to appropriate money or transfer funds from appropriations already made, or use funds not otherwise appropriated, for the purpose of carrying out any or all of the powers hereby conferred.

"Sec. 106. *Appropriations for Recreational, Scientific and Cultural Activities.*—The City Council is authorized to exercise the following expressed powers:

(a) To appropriate funds, in the discretion of the City Council, to aid any non-profit association or other entity in the City in defraying the expenses arising in the operation and maintenance of a museum, arts and drama, or other enterprise by whatever name called wherein and in connection with which is maintained and operated one or more of the following: Natural, historical, scientific, or literary curiosities, works of art, paintings, sculptures, dramatic undertakings, historical collections, and other exhibits and works for the education, cultural advancement and enjoyment of the general public including children and young people, the provision and maintenance of a park, zoo, aviary, aquarium, or other facility in which are kept animals, birds, or fish; the cultivation, maintenance, and exhibition of botanical gardens, the organization and conduct of nature classes and programs of scientific, cultural and educational interests which may tend to encourage individuals, especially children and young people, to take an interest in natural, scientific and cultural works; the purpose of advertising the advantages of the City or promoting the public interest and general welfare of the City; and such other projects and endeavors as are not inconsistent with the general purposes and scope of activities herein described.

(b) No such appropriation shall be made unless the museum, garden, or other facilities and enterprise are open to the general public.

(c) No funds shall be appropriated by the City Council for any of such purposes except those which may be available from sources other than taxes, unless and until authority to appropriate funds derived from taxes is granted in accordance with the constitutional and statutory requirements.

(d) The City Council is authorized and empowered, as a condition precedent to the making of any such appropriation of public funds for any of the purposes hereinabove described, to require written reports to be submitted to it by such association or enterprise as often and in as much detail as it may prescribe; to have the right to examine and audit the books and records of such association or enterprise at such times as it may deem advisable; and to establish such rules, regulations, and policies as it may deem in the public interest, to which such association or enterprise shall conform.

(e) The activities, enterprises, and purposes described in this section are hereby declared to be public purposes.

"ARTICLE 13. Economic Development.

"Sec. 107. *Advertisement of the City.*—The City Council is authorized to appropriate annually reasonable sums for advertising the City.

"Sec. 108. *Encouraging Location of Industry.*—The City Council is authorized and empowered annually to set apart and appropriate from monies paid to the City by the Durham County Board of Alcoholic Control as profits from the operation of alcoholic beverage stores in Durham County, or from surplus funds of the City not derived from taxation and not otherwise appropriated, such amounts as may be deemed requisite and proper by the City

Council, and to expend the same for the purpose of aiding, assisting, and encouraging, by contract with independent contractors or otherwise, the location of manufacturing, industrial, and commercial plants, distribution centers or businesses in the City and for advertising the advantages and resources of the City and for such other purposes as will, in the discretion of the City Council increase the taxable value of property of the City and which will promote the general welfare of the City, which purposes are declared to be lawful public purposes of the City.

"ARTICLE 14. Miscellaneous Powers.

"Sec. 109. *City Ice Plant.*—The City is authorized and empowered to construct, own and operate a City ice plant, and to deal in ice.

"Sec. 110. *City Rock Quarry.*—The City is authorized and empowered to purchase, lease, or otherwise acquire lands in or outside the corporate limits, for the purpose of excavating rock and to operate what is known as a rock quarry thereon.

"Sec. 111. *Aid to Charitable Institutions.*—The City Council is authorized to appropriate annually reasonable sums in aid of public libraries, public hospitals and other charitable institutions.

"Sec. 112. *Certain Facilities upon Water Tanks and Off-Street Parking Structures.*—The City Council is fully authorized and empowered to provide for the construction and installation of storerooms, restaurants, observation decks, heliports, and other facilities in its discretion, in and upon off-street parking structures and facilities and in and upon structures and tanks for the storage of water, and it is further authorized and empowered to rent or lease such storerooms, restaurants, observation towers, offices and other facilities which may be constructed and installed upon, over, or around such off-street parking structures and facilities and such water towers and tanks, upon such terms and conditions as the City Council may from time to time prescribe. The revenue to be derived from such rentals or leases of these facilities shall be used for such public purpose or purposes as the City Council may determine.

"Sec. 113. *Authority to Waive Governmental Immunity.*—(1) The City Council is authorized and empowered, but not required, to waive its governmental immunity from liability for wrongful death or injury to person or property arising from negligent acts of its officers, agents or employees when acting within the scope of their authority or within the course of their employment. Waiver of immunity shall be accomplished by purchasing liability insurance as provided in this act, and the immunity shall be waived only to the extent of the amount of insurance so obtained and only to the extent of coverage provided by such a policy of liability insurance. No affirmative action of the Council shall be required to retain immunity not waived by the purchase of insurance, and no affirmative action or resolution of the Council beyond the act of purchasing liability insurance shall be required to accomplish waiver of immunity to extent of insurance coverage.

(2) Contracts of insurance purchased pursuant to this act must be issued by insurers duly licensed and authorized to execute insurance contracts in this State, and must by their terms adequately insure the City of Durham against any and all liability for wrongful death or injury to person or property proximately caused by the negligent act of any officer, agent or employee of the City of Durham when acting within the scope of his authority or within the course of his employment. Any company entering into a contract of insurance

with the City of Durham pursuant to this act thereby waives any defense based on the governmental immunity of the City.

The City is authorized to pay the lawful premiums of liability insurance policies out of the general tax revenue or other funds of the City.

(3) Any person sustaining damages, or in case of death, his personal representative, may sue the City as insured as provided in this Charter, for the recovery of his damages in any court of competent jurisdiction in this State, and it shall be no defense to any such action that the negligent act alleged was in pursuance of a governmental function of the City, to the extent that the City has insurance coverage as provided in this section.

Except as expressly provided herein, nothing in this section shall be construed to deprive the City of any defense whatsoever to any action for damages, or to restrict, limit, or otherwise affect any defense that the City may have at common law or by virtue of any statute (whether general, special, private, or local); and nothing in this section shall be construed to relieve any person sustaining damages, or any personal representative of a decedent, from any duty to give notice of his claim to the City or to begin his action within the time prescribed by the applicable statute of limitations.

(4) The City may incur liability pursuant to this section only with respect to a claim arising after the City has procured liability insurance pursuant to this section and during the time that the insurance is in effect.

(5) No part of the pleadings that relate to or alleges facts as to the City's insurance against liability shall be read or mentioned in the presence of the trial jury in any action brought pursuant to this section. No liability shall attach in any case unless the plaintiff waives the right to have all issues of law or fact relating to insurance in the action determined by a jury and such issues shall be heard and determined by the judge without resort to a jury. The jury shall be absent during any motions, arguments, testimony, or announcement of findings of fact or conclusions of law with respect to insurance unless the City asks for a jury trial thereon.

No plaintiff in an action brought pursuant to this section, nor counsel, nor witness therefor, shall make any statement, ask any question, read any pleadings, or do any other act in the presence of the trial jury that indicates to any member of the jury that the City's liability would be covered by insurance. If any such act is done, the judge shall immediately order a mistrial of the action.

"Sec. 114. *Community Action and Manpower Development Programs.*—In exercising the authority granted the City in G.S. 160A-492 to undertake and support community action and manpower programs, the following definitions of terms shall apply:

(1) 'Community action program' — a community based and operated program that includes or is designed to include a range of services and activities having a measurable and potentially major impact on the causes of poverty in the community; such a program includes the planning of responses to causes of poverty, coordinating existing public and private responses, initiating and supporting new projects to combat poverty, and encouraging participation by members of the community in development of programs and projects affecting their interests.

(2) 'Manpower development program' — a program of occupational training for the economically disadvantaged, unemployed, and under-employed and may

include, by way of illustration but not limitation, efforts to acquaint eligible persons with the availability of training; assessment of individual needs, potentialities, and interests; counseling and provision of training, including on-the-job training; allowances for training, and for transportation, subsistence, and other expenses while training; supportive services; and development of information on the labor market and its activities.

"Sec. 115. *Enumeration of Powers Not Exclusive.*—The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive, but in addition to the powers enumerated or implied herein, the City, either through its City Council, or through such other officers as may by law be provided for, shall have and may exercise all other powers which, under the Constitution and laws of North Carolina, now are, or hereafter may be, granted to cities.

"CHAPTER VII.

"MISCELLANEOUS PROVISIONS.

"Sec. 116. *Inspection of Records and Papers.*—Any taxpayer or qualified voter of the City shall be allowed to inspect the journals, records and papers on file in the office of any department of the City, in the presence of the City Clerk or the City Manager.

"Sec. 117. *Penalty for Failure to Turn Over City Property.*—The Mayor, City Council, Collector of Revenue, and all other officers of the City who shall on demand fail to turn over to their successors in office the property, records, books, money, scales, or effects of the City shall be deemed guilty of a misdemeanor, and upon conviction shall be imprisoned for not more than two years and fined not exceeding five hundred dollars ($500.00), in the discretion of the court.

"Sec. 118. *Presumption of Title in the City.*—That in the absence of any contracts with the City in relation to the lands used or occupied by it for the purpose of streets, sidewalks, alleys, or other public works of the City, signed by the owner thereof or his agent, it shall be presumed that such land has been granted to the City by the owner or owners thereof, and the City shall have good right and title thereto, and shall have, hold, and enjoy the same. Unless the owner, or owners of such land, or those claiming under them shall make claim or demand for compensation within two years next after such land was taken, he, or they, shall be forever barred from recovering the land, or having any compensation therefor; provided, nothing herein contained shall affect the rights of infants until two years after the removal of their disabilities.

"Sec. 119. *Method of Presenting Claims Against the City.*—No action shall be instituted or maintained against the City upon any claim or demand whatsoever, of any kind or character, until the claimant shall have first presented his or her claim or demand in writing to the City Council, who shall have declined to pay or settle the same, or for 10 days after such presentation neglected to enter or cause to be entered upon its minutes its determination in regard thereto, but nothing herein shall be construed to prevent any statute of limitation from commencing to run at the time such claim accrued or demand arose, or in any manner interfere with its running."

Sec. 2. The purpose of this act is to revise the Charter of the City of Durham and to consolidate herein certain acts concerning the property, affairs, and government of the City. It is intended to continue without interruption those provisions of prior acts which are consolidated into this act, so that all rights and liabilities that have accrued are preserved and may be enforced.

Sec. 3. This act shall not be deemed to repeal, modify, or in any manner affect any of the following acts, portions of acts, or amendments thereto, whether or not such acts, portions of acts, or amendments are expressly set forth herein:

(a) Any acts concerning the property, affairs or government of public schools in the City of Durham.

(b) Any acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind.

Sec. 4. (a) The following acts or portions of acts, having served the purposes for which they were enacted, or having been consolidated into this act are hereby repealed:

Chapter	Laws
25	Private Laws 1866-67
94	Private Laws 1868-69
110	Private Laws 1874-75
106	Private Laws 1881
106	Private Laws 1883
101	Private Laws 1885
154	Private Laws 1889
119	Private Laws 1891
61	Private Laws 1893
64	Public Laws 1895
204	Private Laws 1895
91	Private Laws 1897
110	Private Laws 1897
119	Private Laws 1901
345	Private Laws 1901
199	Private Laws 1905
818	Public Laws 1905
214	Private Laws 1907
231	Private Laws 1907
59	Public Laws 1909
389	Private Laws 1909
35	Private Laws 1911
39	Private Laws 1911
5	Private Laws, Extra Session 1913
223	Public-Local Laws 1911
772	Public-Local Laws 1911
23	Public-Local Laws 1913
245	Public-Local Laws, Extra Session 1913
336	Private Laws 1913
377	Private Laws 1913
405	Private Laws 1913
447	Private Laws 1913
548	Public-Local Laws 1913
89	Private Laws 1915
115	Private Laws 1915
328	Private Laws 1915
331	Private Laws 1915
561	Public-Local Laws 1915

3	Private Laws 1917
20	Private Laws 1917
22	Private Laws 1917
45	Private Laws 1917
60	Private Laws 1917
61	Private Laws 1917
131	Private Laws 1917
138	Private Laws 1917
194	Private Laws 1917
15	Private Laws 1919
71	Private Laws, Extra Session 1920
178	Public-Local Laws, Extra Session 1920
42	Private Laws, Extra Session 1921
72	Public-Local Laws 1921
142	Private Laws 1921
212	Public-Local Laws 1921
252	Private Laws 1921
253	Private Laws 1921
507	Public-Local Laws 1921
8	Private Laws 1923
104	Private Laws 1923
148	Private Laws 1923
149	Private Laws 1923
255	Private Laws 1923
26	Private Laws, Extra Session 1924
63	Private Laws, Extra Session 1924
81	Public-Local Laws, Extra Session 1924
111	Private Laws 1925
162	Private Laws 1925
246	Public-Local Laws 1925
12	Private Laws 1927
115	Private Laws 1927
126	Private Laws 1927
270	Public-Local Laws 1927
63	Private Laws 1929
220	Public-Local Laws 1929
73	Private Laws 1931
91	Private Laws 1931
15	Private Laws 1933
23	Private Laws 1933
199	Private Laws 1933
199	Public-Local Laws 1933
240	Private Laws 1933
17	Public-Local Laws 1935
61	Private Laws 1935
196	Public-Local Laws 1935
275	Public-Local Laws 1937
448	Public-Local Laws 1937
504	Public-Local Laws 1937
514	Public-Local Laws 1937

634	Public-Local Laws 1937
181	Public-Local Laws 1939
211	Session Laws 1945
212	Session Laws 1945
252	Session Laws 1945
262	Session Laws 1945
341	Session Laws 1947
425	Session Laws 1947
797	Session Laws 1947
812	Session Laws 1947
908	Session Laws 1947
36	Session Laws 1949
211	Session Laws 1949
833	Session Laws 1949
834	Session Laws 1949
875	Session Laws 1949
924	Session Laws 1949
1277	Session Laws 1949
22	Session Laws 1951
640	Session Laws 1951
702	Session Laws 1951
238	Session Laws 1953
364	Session Laws 1955
367	Session Laws 1955
1091	Session Laws 1955
167	Session Laws 1957
194	Session Laws 1957
658	Session Laws 1957
1099	Session Laws 1957
1315	Session Laws 1957
1337	Session Laws 1957
495	Session Laws 1959
496	Session Laws 1959
534	Session Laws 1959
696	Session Laws 1959
710	Session Laws 1959
867	Session Laws 1959
618	Session Laws 1961
796	Session Laws 1961
820	Session Laws 1961
832	Session Laws 1961
869	Session Laws 1961
107	Session Laws 1963
647	Session Laws 1963
713	Session Laws 1963
737	Session Laws 1963
744	Session Laws 1963
748	Session Laws 1963
1153	Session Laws 1963
1200	Session Laws 1963

479	Session Laws 1965
527	Session Laws 1965
528	Session Laws 1965
571	Session Laws 1965
603	Session Laws 1965
614	Session Laws 1965
797	Session Laws 1965
440	Session Laws 1967
506	Session Laws 1967
803	Session Laws 1967
428	Session Laws 1969
483	Session Laws 1969
503	Session Laws 1969
596	Session Laws 1969
597	Session Laws 1969
654	Session Laws 1969
657	Session Laws 1969
703	Session Laws 1969
1233	Session Laws 1969
9	Session Laws 1971
506	Session Laws 1971
786	Session Laws 1971
859	Session Laws 1971
356	Session Laws 1973
399	Session Laws 1973
400	Session Laws 1973
401	Session Laws 1973
402	Session Laws 1973
403	Session Laws 1973
404	Session Laws 1973
405	Session Laws 1973
406	Session Laws 1973
407	Session Laws 1973
408	Session Laws 1973
409	Session Laws 1973
410	Session Laws 1973
411	Session Laws 1973
412	Session Laws 1973
413	Session Laws 1973
414	Session Laws 1973
415	Session Laws 1973
429	Session Laws 1973
430	Session Laws 1973
431	Session Laws 1973
602	Session Laws 1973
703	Session Laws 1973
981	Session Laws 1973
982	Session Laws 1973
985	Session Laws 1973
986	Session Laws 1973

987	Session Laws 1973
1154	Session Laws 1973
1429	Session Laws 1973

(b) The following acts or portions of acts, having served the purposes for which they were enacted, or having been consolidated into this act are hereby repealed only insofar as they apply to the City of Durham:

Chapter	Laws
172	Public Laws 1872-73
137	Public Laws 1873-74
279	Private Laws 1915
86	Public-Local Laws 1917
42	Public-Local Laws 1919
314	Public-Local Laws 1925
156	Private Laws 1927
577	Session Laws 1943
369	Session Laws 1949
506	Session Laws 1951
596	Session Laws 1951
953	Session Laws 1955
745	Session Laws 1963

Sec. 5. No provision of this act is intended, nor shall be construed, to affect in any way any rights or interests (whether public or private):

(a) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act.

(b) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken (including the adoption of ordinances or resolutions) pursuant to or within the scope of any provision of law repealed by this act.

Sec. 6. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(a) The repeal herein of any act repealing such law, or

(b) Any provision of this act that disclaims an intention to repeal or effect enumerated or designated laws.

Sec. 7. (a) All existing ordinances and resolutions of the City of Durham, and all existing rules or regulations of departments or agencies of the City of Durham, not inconsistent with the provisions of this act, shall continue in full force and effect until repealed, modified or amended.

(b) No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act by or against the City of Durham or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

Sec. 8. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 9. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 10. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of June, 1975.

H. B. 837 **CHAPTER 672**

AN ACT TO REWRITE ARTICLE 12 OF CHAPTER 90 OF THE GENERAL STATUTES CONCERNING LICENSURE OF PODIATRISTS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 90, Article 12 of the General Statutes is hereby rewritten as follows:

"§ 90-188. *Podiatry defined.*—Podiatry as defined by this Article is the surgical or medical or mechanical treatment of all ailments of the human foot, except the amputation of the foot or toes or the administration of an anesthetic other than local and except the correction of clubfoot deformity and triple arthrodesis.

"§ 90-189. *Unlawful to practice unless registered.*—No person shall practice podiatry unless he shall have been first licensed and registered so to do in the manner provided in this Article, and if any person shall practice podiatry without being duly licensed and registered, as provided in this Article, he shall not be allowed to maintain any action to collect any fee for such services. Any person who engages in the practice of Podiatry [H-unless licensed and registered] as hereinabove defined, or who attempts to do so, or who professes to do so shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine or imprisonment or both in the discretion of the court. Each act of such unlawful practice shall constitute a separate offense.

"§ 90-190. *Board of Podiatry Examiners; how elected; terms of office; powers; duties.*—There shall be established a Board of Podiatry Examiners for the State of North Carolina. This board shall consist of three members who shall be elected by a vote of all licensed podiatrists who are practicing in the State of North Carolina and who are members of the North Carolina Podiatry Society. All of such members of the board shall be licensed podiatrists who have practiced podiatry in North Carolina for a period of not less than five years immediately prior to their election. The members of the board shall be elected for a term of three years; Provided, however, one of the original board shall serve a term of one year; one, two years; and one, three years. The members of the former board shall serve until the new board is elected. The board shall have authority to elect its own presiding and other officers, and may also elect a person to fill an unexpired term. The board, in carrying out its responsibilities, shall have authority to employ personnel, full-time or part-time, as shall be determined to be necessary in the work of the board. The board shall have authority to pay compensation to the member of the board holding the position of secretary-treasurer on a basis to be determined by the board. The board is required to keep proper and complete records with respect to all of its activities, financial and otherwise, and shall on or before January 30 of each year submit a written report to the Governor and to such other officials and/or agencies as other sections of the General Statutes may require, said report covering the activities of the board during the previous calendar year, which report shall include a verified financial statement. The board is authorized to adopt rules and regulations governing its proceedings and the practice of podiatry in this

State, not inconsistent with the provisions of this Article. The board shall maintain at all times an up-to-date list of the names and addresses of each licensed podiatrist in North Carolina, which list shall be available for inspection and which shall be included in the annual report referred to above.

"§ 90-191. *Applicants to be examined; examination fee; requirements.*—Any person not heretofore authorized to practice podiatry in this State shall file with the Board of Podiatry Examiners an application for examination accompanied by a fee not to exceed one hundred dollars ($100.00), together with proof that the applicant is more than 18 years of age, is of good moral character, and has obtained a preliminary education equivalent to four years of instruction in a high school and two years of instruction in a college or university approved by the American Association of Colleges and Universities. Such applicant before presenting himself for examination must be a graduate of a College of Podiatric Medicine accredited by the National Council of Education of American Podiatry Association.

"§ 90-192. *Examinations; subjects; certificates.*—The Board of Podiatry Examiners shall hold at least one examination annually for the purpose of examining applicants under this Article. The examination shall be at such time and place as the board may see fit. The board may make such rules and regulations as it may deem necessary to conduct its examinations and meetings. It shall provide, preserve and keep a complete record of all its transactions. Examinations for registration under this Article shall be in the English language and shall be written, oral, or clinical, or a combination of written, oral or clinical, as the board may determine, and may include the following subjects: anatomy, physiology, bacteriology, chemistry, dermatology, podiatry, surgery, materia medica, pharmacology and pathology. No applicant shall be granted a license certificate by the board unless he obtains a general average of 75 or over, and not less than fifty percent (50%) in any one subject. After such examination the board shall without unnecessary delay, act on same and issue license certificates to the successful candidates signed by each member of the board; and the Board of Podiatry Examiners shall report annually to each licensed podiatrist in the State of North Carolina.

"§ 90-193. *Reexamination of unsuccessful applicants.*—An applicant failing to pass his examination shall within one year be entitled to reexamination upon the payment of an amount not to exceed one hundred dollars ($100.00), but not more than two reexaminations shall be allowed any one applicant. Should he fail to pass his third examination he shall file a new application before he can again be examined.

"§ 90-194. *Revocation of certificate; grounds for; suspension of certificate.*—(a) The North Carolina State Board of Podiatry Examiners, in accordance with Chapter 150 (Administrative Procedure Act) of the General Assembly, shall have the power and authority to:

(1) Refuse to issue a license to practice podiatry;

(2) Refuse to issue a certificate of renewal of a license to practice podiatry;

(3) Revoke or suspend a license to practice podiatry; and

(4) Invoke such other disciplinary measures, censure, or probative terms against a licensee as it deems fit and proper;

in any instance or instances in which the board is satisfied that such applicant or licensee:

(1) Has engaged in any act or acts of fraud, deceit or misrepresentation in

obtaining or attempting to obtain a license or the renewal thereof;

(2) Is a chronic or persistent user of alcohol intoxicants or habit-forming drugs or narcotics to the extent that the same impairs his ability to practice podiatry;

(3) Has been convicted of any of the criminal provisions of this Article or has entered a plea of guilty or nolo contendere to any charge or charges arising therefrom;

(4) Has been convicted of or entered a plea of guilty or nolo contendere to any felony charge or to any misdemeanor charge involving moral turpitude;

(5) Has been convicted of or entered a plea of guilty or nolo contendere to any charge of violation of any state or federal narcotic or barbiturate law;

(6) Has engaged in any act or practice violative of any of the provisions of this Article or violative of any of the rules and regulations promulgated and adopted by the board, or has aided, abetted or assisted any other person or entity in the violation of the same;

(7) Is mentally, emotionally, or physically unfit to practice podiatry or is afflicted with such a physical or mental disability as to be deemed dangerous to the health and welfare of his patients. An adjudication of mental incompetency in a court of competent jurisdiction or a determination thereof by other lawful means shall be conclusive proof of unfitness to practice podiatry unless or until such person shall have been subsequently lawfully declared to be mentally competent;

(8) Has employed or procured any person to obtain or solicit professional patronage or has personally solicited professional patronage;

(9) Has permitted the use of his name, diploma or license by another person either in the illegal practice of podiatry or in attempting to fraudulently obtain a license to practice podiatry;

(10) Has engaged in such immoral conduct as to discredit the podiatry profession;

(11) Has obtained or collected or attempted to obtain or collect any fee through fraud, misrepresentation, or deceit;

(12) Has been negligent in the practice of podiatry;

(13) Is not professionally competent in the practice of podiatry;

(14) Has practiced any fraud, deceit or misrepresentation upon the public or upon any individual in an effort to acquire or retain any patient or patients;

(15) Has made fraudulent or misleading statements pertaining to his skill, knowledge, or method of treatment or practice;

(16) Has committed any fraudulent or misleading acts in the practice of podiatry;

(17) Has, directly or indirectly, advertised in any manner for professional patronage or business; provided, however, that it shall not be considered advertising for a podiatrist, duly licensed to practice in this State, to place his name, office address, telephone number, and office hours in an approved register or other publication, or to place his name, followed by

the word, 'podiatrist,' on the door or window of his office, or to place his name before the public in any manner expressly approved by the board;

(18) Has used or permitted another to use his name, as a podiatrist, in promoting the sale or advertisement of any product or service;

(19) Has wrongfully or fraudulently or falsely held himself out to be or represented himself to be qualified as a specialist in any branch of podiatry;

(20) Has persistently maintained, in the practice of podiatry, unsanitary offices, practices, or techniques;

(21) Is a menace to the public health by reason of having a serious communicable disease;

(22) Has distributed or caused to be distributed any intoxicant, drug, or narcotic for any other than a lawful purpose; or

(23) Has engaged in any unprofessional conduct as the same may be, from time to time, defined by the rules and regulations of the board.

(b) If any person engages in or attempts to engage in the practice of podiatry while his license is suspended, his license to practice podiatry in the State of North Carolina may be permanently revoked.

(c) Action of the board shall be subject to judicial review as provided by Chapter 150 (Administrative Procedure Act).

"§ 90-195. *Fees for certificates and examinations; compensation of board.*—To provide a fund in order to carry out the provisions of this Article the board shall charge not more than one hundred dollars ($100.00) for each license issued and one hundred dollars ($100.00) for each examination. From such funds the board shall pay its members at the rate set out in G.S. 93B-5: Provided, that at no time shall the expenses exceed the cash balance on hand.

"§ 90-196. *Annual fee; cancellation or renewal of license.*—On or before the first day of July of each year every podiatrist engaged in the practice of podiatry in this State shall transmit to the secretary-treasurer of the said North Carolina State Board of Podiatry Examiners his signature and post office address, the date and year of his or her certificate, together with a fee to be set by the Board of Podiatry Examiners not to exceed fifty dollars ($50.00) and receive therefor a renewal certificate. Any license or certificate granted by said board under or by virtue of this section shall automatically be cancelled and annulled if the holder thereof fails to secure the renewal herein provided for within a period of 30 days after the first day of July of each year, and such delinquent podiatrist shall pay a penalty for reinstatement of twenty-five dollars ($25.00) for each succeeding month of delinquency until a six-month period of delinquency exists. After a six-month period of delinquency exists or after January 1st following the July 1st deadline, the said podiatrist must appear before the North Carolina Board of Podiatry Examiners and take a new examination before being allowed to practice podiatry in the State of North Carolina.

"§ 90-197. *Continuing education courses required.*—Beginning May 1, 1976, all registered podiatrists then or thereafter licensed in the State of North Carolina shall be required to take annual courses of study in subjects relating to the practice of the profession of podiatry to the end that the utilization and application of new techniques, scientific and clinical advances, and the achievements of research will assure expansive and comprehensive care to the public. The length of study shall be prescribed by the board but shall not exceed 25 hours in any calendar year. Attendance must be at a course or courses

approved by the board. Attendance at any course or courses of study are to be certified to the board upon a form provided by the board and shall be submitted by each registered podiatrist at the time he makes application to the board for the renewal of his license and payment of his renewal fee. The board is authorized to treat funds set aside for the purpose of continuing education as State funds for the purpose of accepting any funds made available under federal law on a matching basis for the promulgation and maintenance of programs of continuing education. This requirement may be waived by the board in cases of certified illness or undue hardship as provided in the rules and regulations of the board.

"§ 90-198. *Free choice by patient guaranteed.*—No agency of the State, county or municipality, nor any commission or clinic, nor any board administering relief, social security, health insurance or health service under the laws of the State of North Carolina shall deny to the recipients or beneficiaries of their aid or services the freedom to choose the provider of care or service which are within the scope of practice of a duly licensed podiatrist or duly licensed physician as defined in this Chapter.

"§ 90-199. *Injunctions.*—The board may appear in its own name in the superior courts in an action for injunctive relief to prevent violation of this Article and the superior courts shall have power to grant such injunctions regardless of whether criminal prosecution has been or may be instituted as a result of such violations.

"§ 90-200. *Not applicable to physicians.*—Nothing in this Article shall apply to a physician licensed to practice medicine or to a person acting under the supervision or at his direction in the course of such practice."

Sec. 2. Upon the effective date of Chapter 150A of the General Statutes, the reference to Chapter 150 in G.S. 90-194 shall be amended to refer to Chapter 150A.

Sec. 3. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 18th day of June, 1975.

H. B. 992 CHAPTER 673

AN ACT RELATING TO HUNTING WITH PRIMITIVE WEAPONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-95.5, as the same appears in Chapter 197 of the 1975 Session Laws, is hereby amended as follows:

(1) By deleting from the title or catch line the words "Bow and arrow" and inserting in lieu thereof the words "Primitive weapons";

(2) By deleting in the first sentence the phrase "exclusively with bow and arrow as authorized by G.S. 113-104" and inserting in lieu thereof the phrase "wild animals or birds with bow and arrow, muzzle-loading firearm or other primitive weapon during any special season established by the Wildlife Resources Commission for hunting with authorized primitive weapons"; and

(3) By deleting in the second sentence the phrase "any additional license or permit which may be required for hunting big game, hunting on game lands, or using a bow and arrow as a special device in taking nongame fish" and inserting in lieu thereof the phrase "an appropriate resident or nonresident hunting

license or any additional license or permit which may be required for hunting big game or hunting on game lands".

Sec. 2. G.S. 113-95.6, as the same appears in Chapter 197 of the 1975 Session Laws, is hereby amended by deleting from the first sentence thereof the phrase "bow and arrow as authorized by G.S. 113-104" and by inserting in lieu thereof the words "authorized primitive weapons".

Sec. 3. G.S. 113-96.1, as amended by Chapter 197 of the Session Laws of 1975, is hereby further amended by deleting from the license tabulation the words "Bow and arrow" and by inserting in lieu thereof the words "Primitive weapons".

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of June, 1975.

H. B. 1104 CHAPTER 674

AN ACT AUTHORIZING UNITS OF LOCAL GOVERNMENT TO ISSUE GRANT ANTICIPATION NOTES FOR CAPITAL PROJECTS IN ANTICIPATION OF THE RECEIPT OF MONEYS FROM GRANT COMMITMENTS FOR SUCH CAPITAL PROJECTS FROM THE STATE OF NORTH CAROLINA OR THE UNITED STATES OR ANY AGENCIES OF EITHER.

The General Assembly of North Carolina enacts:

Section 1. Chapter 159 of the General Statutes is hereby amended by adding a new section as follows:

"§ 159-171. *Grant anticipation notes.*—(a) A unit of local government is authorized to borrow money for the purpose of paying appropriations made for a capital project in anticipation of the receipt of moneys from grant commitments for such capital project from the State or the United States or any agencies of either, and to issue its negotiable notes in evidence thereof. Grant anticipation notes shall mature not later than 12 months after the estimated completion date of such capital project as determined by the governing body of the unit of local government and may be renewed from time to time, but no renewal shall mature later than 12 months after the estimated completion date of such capital project.

(b) No grant anticipation note may be issued if the amount thereof, together with the amount of all other notes authorized or issued in anticipation of the same grant commitment, shall exceed ninety percent (90%) of the unpaid amount of said grant commitment. Each note shall bear on its face a statement to the effect that it is payable solely from moneys received from a described grant and that the faith and credit of the issuing unit are not pledged for the payment thereof, and on its face or reverse the following certificate signed by the finance officer: 'This note and all other grant anticipation notes of (issuing unit) authorized or outstanding as of (date) and issued or to be issued in anticipation of (describe grant commitment) amount to ninety percent (90%) or less of the unpaid amount of said grant commitment'. No grant anticipation note shall be valid without this certificate.

(c) Grant anticipation notes issued under this section shall be special obligations of the issuing unit. Neither the credit nor the taxing power of the issuing unit may be pledged for the payment of grant anticipation notes, and no

holder of such notes shall have the right to compel the exercise of the taxing power by the issuing unit or the forfeiture of any of its property in connection with any default thereon."

Sec. 2. The heading in Article 9 of Chapter 159 reading "Part Two. Tax and Revenue Anticipation Notes" is amended by striking the foregoing heading and inserting in lieu thereof the words, "Part Two. Tax, Revenue and Grant Anticipation Notes".

Sec. 3. G.S. 159-172(a) is hereby amended by striking the words "G.S. 159-169 and 159-170" in the second line thereof and inserting in lieu thereof the words "this Part".

Sec. 4. G.S. 159-172(b) is hereby amended by striking the entire paragraph (b) and inserting in lieu thereof the following:

"(b) Before any notes may be issued pursuant to this Part, they must be approved by the commission. In determining whether to approve the issuance of notes, the commission may consider (i) the reasonableness of the budget estimates of the taxes or other revenues in anticipation of which the tax or revenue anticipation notes are to be issued, (ii) the firm and binding character of the grant commitment in anticipation of which the grant anticipation notes are to be issued, (iii) whether the amount of the notes, together with the amount of other authorized or outstanding notes issued or to be issued in anticipation of the same taxes or other revenues or grant commitments, exceeds the limitations prescribed in G.S. 159-169, G.S. 159-170 or G.S. 159-171 as the case may be, and (iv) any other matters that the commission considers to have a bearing on whether the issue should be approved. The commission shall approve the issuance of the notes if, upon the information and evidence it receives, it finds and determines that (i) the issue is necessary and expedient, (ii) the budget estimates of the taxes or other revenues are reasonable or the grant commitment is firm and binding, and (iii) the amount of the notes, together with the amounts of other authorized or outstanding notes issued or to be issued in anticipation of the same taxes or other revenues or grant commitments do not exceed the appropriate limitations prescribed by this Part. An order approving an issue shall not be regarded as an approval of the legality of the notes in any respect."

Sec. 5. G.S. 159-172(c) is hereby amended by striking the words "G.S. 159-169 and 159-170" in the first line thereof and inserting in lieu thereof the words "this Part".

Sec. 6. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 18th day of June, 1975.

H. B. 1123 CHAPTER 675

AN ACT TO REVISE THE LICENSE FEE SCHEDULE PERTAINING TO PRACTICING PSYCHOLOGISTS.

The General Assembly of North Carolina enacts:

Section 1. Subsections (a) and (b) of G.S. 90-270.11, as the same appear in the 1974 Cumulative Supplement to Volume 2C of the General Statues of North Carolina are hereby amended by changing the language preceding the first comma in each subdivision (1) thereof to read as follows:

"(1) The board shall issue a license to practice psychology to any applicant who pays an application fee of fifty dollars ($50.00) and an additional examination fee of fifty dollars ($50.00)."

Sec. 2. G.S. 90-270.11(a) is further amended by adding a new subdivision (2) thereto to read as follows:

"(2) In order for a psychological examiner to be upgraded to a practicing psychologist, the applicant must comply with the requirements set forth in subdivision (1) hereof; however, a fifty dollar ($50.00) examination fee only shall be required."

Sec. 3. G.S. 90-270.14, as the same appears in the 1974 Cumulative Supplement to Volume 2C of the General Statutes is hereby amended by changing the second sentence thereof to read as follows: "Each application for renewal must be accompanied by a renewal fee of twenty dollars ($20.00)."

Sec. 4. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 18th day of June, 1975.

H. B. 1156 CHAPTER 676

AN ACT TO ENCOURAGE AND PLAN FOR GOOD FORESTRY PRACTICES IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. Short title. This act shall be known as the Forestry Study Act.

Sec. 2. Definitions. As used in this act:

(a) "Secretary" means the Secretary of the Department of Natural and Economic Resources.

(b) "Forest practice" means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to:

(1) Road and trail construction and maintenance,
(2) Harvesting,
(3) Precommercial thinning,
(4) Reforestation,
(5) Fertilization,
(6) Prevention and suppression of diseases and insects,
(7) Salvage of trees, and
(8) Brush control.

"Forest practices" shall not include preparatory work, such as tree marking, surveying, and road flagging and removal or harvesting of incidental vegetation from forest lands, such as berries, ferns, greenery, mistletoe, herbs, mushrooms,

and other products which cannot ordinarily be expected to result in damage to forest soils, timber, or public resources.

Sec. 3. Statement of purpose. (a) The General Assembly finds that:

(1) Unfavorable environmental impacts, although currently of a local and sporadic nature, are occurring as a result of forest practices. It is imperative that corrective action be developed now to prevent more serious problems in the future.

(2) Regeneration of unproductive forest land is a high-priority problem requiring prompt attention and action.

(3) The technical knowledge exists to design standard operating procedures or guidelines for harvesting and cultural practices which would minimize damage to the soil and water resources of the State. This is not the case with respect to the problem of forest regeneration.

(4) This State's diverse forest regions require flexibility in the design and administration of such standard operating procedures or guidelines.

(5) A comprehensive program of education, training, and financial incentives to encourage voluntary compliance with these standard guidelines for forest practices is preferable to enforced regulation. The complexity of developing such programs requires extensive study and evaluation.

(b) The purpose of this act is to direct the Secretary of the Department of Natural and Economic Resources to conduct continuing studies and investigations and make recommendations to future sessions of the General Assembly. These investigations and recommendations should be:

(1) Designed to assure the continuous growing and harvesting of forest tree species and to protect the soil, air, and water resources, including but not limited to streams, lakes, and estuaries;

(2) Designed to coordinate activities among State agencies that are concerned with the forest environment;

(3) Designed to develop programs to deal with emerging forestry problems, including but not limited to forest taxation, forest incentives, and forest practices;

(4) Designed to keep the General Assembly fully informed concerning forestry and its related problems and needs; and

(5) Designed to develop needed legislation to further the purposes of this act.

Sec. 4. Duties, powers of the Secretary. The Secretary, in carrying out the policy and purposes of this act, shall:

(a) Conduct continuing studies and investigations concerning the purposes of this act.

(b) Continue the work of the Forest Practices Study Committee in investigating the need for forest practices legislation.

(c) Develop regional guidelines for forest practices within the State.

(d) Appoint a citizen advisory committee in each of the three geographic regions of the State (Coastal Plain, Piedmont, and Mountain) as may be deemed necessary.

(1) Each advisory committee shall be composed of seven members representing various interests and residing in the geographic area and should provide technical advice and assistance to the Secretary in all matters relating to regional forest practices.

(2) For each advisory committee three members shall be appointed initially for a one-year term and four members for a two-year term. Thereafter all appointments shall be for a two-year term.

(3) The members of the committee shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

(e) Prepare a report to the 1977 General Assembly and succeeding biennial sessions concerning the status of forestry in North Carolina.

(f) Provide to any appointed citizen advisory committee necessary secretarial and professional staff assistance.

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of June, 1975.

H. B. 1172 CHAPTER 677

AN ACT RELATING TO THE ELECTION AND ORGANIZATION OF THE MITCHELL COUNTY BOARD OF COMMISSIONERS.

The General Assembly of North Carolina enacts:

Section 1. Beginning with the 1976 General Election and quadrennially thereafter, there shall be elected three members to the Mitchell County Board of Commissioners, one commissioner to be elected from District No. 1 and two commissioners to be elected from District No. 2, with the Districts as follows:

District No. 1 - composed of Bakersville Township; Fork Mountain Township; Little Rock Creek Township; Cane Creek Township; Poplar Township; Bradshaw Township; Red Hill Township and Harrell Township.

District No. 2 - composed of Grassy Creek No. 1 Township; Grassy Creek No. 2 Township; and Snow Creek Township.

Beginning with the 1978 General Election and quadrennially thereafter, there shall be elected two members to the Mitchell County Board of Commissioners, one commissioner to be elected from District No. 1, one commissioner from District No. 2. Two encumbent commissioners now serving, whose terms expire in 1978, shall continue in office until the expiration of their respective terms.

Sec. 2. The elective office of chairman of the Mitchell County Board of Commissioners is hereby abolished upon the expiration of the term of the present board chairman.

Sec. 3. At the organizational meeting of the newly constituted Mitchell County Board of Commissioners following the certification of the 1976 General Election results, the board shall elect from among its own membership a person to serve as chairman who shall preside at meetings of the board and who shall serve without additional compensation to that allowed other board members.

Sec. 4. Salaries and per diem compensation of individual members of the Mitchell County Board of Commissioners shall not be increased during their terms of office.

Sec. 5. The five-member Mitchell County Board of Commissioners established by this act shall have the authority to employ a county manager.

Sec. 6. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of June, 1975.

H. B. 188 **CHAPTER 678**

AN ACT TO REPEAL AND AMEND SECTIONS OF THE PUBLIC SCHOOL LAWS OF NORTH CAROLINA.

Whereas, the Second Session of the 1973 General Assembly enacted SB 1238 (Chapter 1293 of the Session Laws) which requires the State to provide equal educational opportunities for all of its children; and

Whereas, a Legislative Commission has given close and careful attention to the laws and programs of the public schools; and

Whereas, there is a need to repeal and amend certain provisions of the existing public school laws in order that the State may in fact provide equal educational opportunities; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 115-165 is hereby repealed.

Sec. 2. G.S. 115-166, Article 20, is hereby amended as follows: Delete all of the last sentence which begins "Provided further, that any child".

Sec. 3. G.S. 115, Article 20A, is hereby repealed.

Sec. 4. G.S. 115-200, Article 24, is hereby repealed.

Sec. 5. G.S. 115, Article 36, is hereby repealed.

Sec. 6. G.S. 115, Article 37, is hereby repealed.

Sec. 7. G.S. 115, Article 38, is hereby repealed.

Sec. 8. G.S. 115, Article 38C, is hereby repealed.

Sec. 9. G.S. 115-11.1. Authority to expend funds for transportation of children with special needs. The State Board of Education is authorized to expend public funds or to otherwise provide motor vehicle transportation for children with special needs as those children are defined by G.S. 115-1.1(c). Such transportation may be provided for nonresidential students to and from the nearest public educational institution or sheltered workshop located within the State when said students are full-time equivalent students in the public schools.

Sec. 10. The General Assembly intends that the State Board of Education shall continue to provide for the transportation of autistic and communications-handicapped and deaf and blind children until June 30, 1976, at which time the Department of Human Resources shall assume the operational and fiscal responsibilities for such transportation.

Sec. 11. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of June, 1975.

S. B. 96 **CHAPTER 679**

AN ACT TO AMEND G.S. 148-22 AUTHORIZING THE SECRETARY OF CORRECTION TO CONTRACT FOR REHABILITATIVE AND TRAINING SERVICES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 148-22(b) is amended by adding thereto a new paragraph to read as follows:

"Specifically the Secretary of Correction may enter into contracts or agreements with appropriate public or private agencies offering needed rehabilitative or training services to provide housing sustenance and supervision, for such inmates of the Department of Correction as the Secretary may deem eligible. The Secretary may contract for the housing of work release inmates at county jails and local confinement facilities. Inmates may be placed in the care of such agencies but shall remain the responsibility of the department and shall be subject to the complete supervision of the department. The department may reimburse such agencies for the support of such inmates at a rate not in excess of the average daily cost of inmate care in the corrections unit to which the inmate would otherwise be assigned."

Sec. 2. Provided that nothing herein contained shall authorize any such contract with the Division of Mental Health.

Sec. 3. The second sentence of G.S. 148-33.1(c) is repealed.

Sec. 4. This act shall be in full force and effect from and after ratification.

In the General Assembly read three times and ratified, this the 19th day of June, 1975.

S. B. 403 **CHAPTER 680**

AN ACT TO PROVIDE FOR THE POSSESSION OF ALCOHOLIC BEVERAGES FOR CULINARY PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 18A of the North Carolina General Statutes is amended by adding a new section as follows:

"§ 18A-31.1. *Permits to keep and use alcoholic beverages for culinary purposes.*—(a) Notwithstanding the provisions of G.S. 18A-30, the State ABC Board may grant to restaurants holding a Grade A rating from the Commissioner for Health Services, a permit which will enable them to keep in the kitchen of the restaurant, alcoholic beverages for culinary purposes only, provided each such restaurant regularly serves foods in which such beverages are used, and provided that these alcoholic beverages are obtained from a lawful source within the State. The State ABC Board may adopt, amend or repeal such regulations as it may deem necessary to carry out the purpose of this section as provided in G.S. 18A-43, and shall require the permittee to retain all receipts and records of alcoholic beverages purchased with the quantities purchased not exceeding a reasonable amount for culinary purpose intended herein. No more than three gallons of alcoholic beverages may be possessed by any restaurant, and it shall be kept in the kitchen or storage area. Nothing contained in this section shall be construed to permit the sale of Irish Coffee or any other beverage containing any spirituous liquor whatsoever.

(b) Application for a culinary permit shall be accompanied with a fee of fifty dollars ($50.00) which shall not be refundable in case a permit is refused, suspended, or revoked. No additional fees or licenses shall be collected by any county or municipality under this section, and the fees collected by the State ABC Board shall be deposited with the State Treasurer of North Carolina. The annual renewal fee for such permit shall be twenty-five percent (25%) of the original permit."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of June, 1975.

S. B. 504

CHAPTER 681

AN ACT REWRITING CHAPTER 89 OF THE GENERAL STATUTES PERTAINING TO ENGINEERING AND LAND SURVEYING.

The General Assembly of North Carolina enacts:

Section 1. Chapter 89 of the General Statutes of North Carolina, as the same appears in Volume 2C of the General Statutes and in the 1974 Cumulative Supplement thereto, is hereby rewritten to read as follows:

"CHAPTER 89.

"ENGINEERING AND LAND SURVEYING.

"§ 89-1. *Short title.*—This Chapter shall be known and may be cited as 'The North Carolina Engineering and Land Surveying Act'.

"§ 89-2. *Declarations; prohibitions.*—In order to safeguard life, health, and property, and to promote the public welfare, the practice of engineering and the practice of land surveying in this State are hereby declared to be subject to regulation in the public interest. It shall be unlawful for any person to practice or to offer to practice engineering or land surveying in this State, as defined in the provisions of this act, or to use in connection with his name or otherwise assume or advertise any title or description tending to convey the impression that he is either a professional engineer or a registered land surveyor, unless such person has been duly registered as such. The right to engage in the practice of engineering or land surveying shall be deemed a personal right, based on the qualifications of the individual as evidenced by his certificate of registration, which shall not be transferable.

"§ 89-3. *Definitions.*—When used in this Chapter, unless the context otherwise requires: (a) 'Board' shall mean the North Carolina State Board of Registration for Professional Engineers and Land Surveyors provided for by this Chapter.

(b) 'Person' means any natural person, firm, partnership, corporation or other legal entity.

(c) 'Responsible charge'. This term means direct control and personal supervision, either of engineering work or of land surveying, as the case may be.

(d) 'Engineer'. The term, 'engineer', within the intent of this act shall mean a person who, by reason of his special knowledge and use of the mathematical, physical and engineering sciences and the principles and methods of engineering analysis and design, acquired by engineering education and engineering experience, is qualified to practice engineering.

(e) 'Professional engineer'. The term, 'professional engineer', as used in this act shall mean a person who has been duly registered and licensed, as a professional engineer by the board established by this act.

(f) 'Engineer-in-training'. The term, 'engineer-in-training', as used in this act, shall mean a person who complies with the requirements for education, experience and character, and has passed an examination in the fundamental engineering subjects, as provided in this act.

(g) 'Practice of engineering'.

(1) The term, 'practice of engineering', within the intent of this act, shall mean any service or creative work, the adequate performance of which requires engineering education, training, and experience, in the application of special knowledge of the mathematical, physical, and engineering sciences to such services or creative work as consultation, investigation, evaluation, planning, and design of engineering works and systems, planning the use of land and water, engineering surveys, and the observation of construction for the purposes of assuring compliance with drawings and specifications; including the consultation, investigation, evaluation, planning, and design for either private or public use, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, projects, and industrial or consumer products or equipment of a mechanical, electrical, hydraulic, pneumatic or thermal nature, insofar as they involve safeguarding life, health or property, and including such other professional services as may be necessary to the planning, progress and completion of any engineering services.

A person shall be construed to practice or offer to practice engineering, within the meaning and intent of this act, who practices any branch of the profession of engineering; or who, by verbal claim, sign, advertisement, letterhead, card, or in any other way represents himself to be a professional engineer, or through the use of some other title implies that he is a professional engineer or that he is registered under this act; or who holds himself out as able to perform, or who does perform any engineering service or work not exempted by this act, or any other service designated by the practitioner which is recognized as engineering.

(2) The term 'practice of engineering' shall not be construed to permit the location, description, establishment or reestablishment of property lines or descriptions of land boundaries for conveyance.

(h) 'Land surveyor-in-training'. The term 'land surveyor-in-training' as used in this act, shall mean a person who has qualified for, taken, and passed an examination on the basic disciplines of land surveying as provided in this act.

(i) 'Registered land surveyor' shall mean a person who, by reason of his special knowledge of mathematics, surveying principles and methods, and legal requirements which are acquired by education and/or practical experience, is qualified to engage in the practice of land surveying, as herein defined, as attested by his registration as a registered land surveyor by the board.

(j) 'Practice of land surveying' by registered land surveyors, shall mean any service or work, the adequate performance of which involves the application of special knowledge of the principles of mathematics, the related physical and applied sciences, and the relevant requirements of law for adequate evidence to the act of measuring and locating lines, angles, elevations, natural and man-

made features in the air, on the surface of the earth, within underground workings, and on the beds of bodies of water for the purpose of determining areas and volumes, for the monumenting of property boundaries, and for the platting and layout of lands and subdivisions thereof, including the topography, alignment and grades of street and incidental drainage within the subdivision, and for the preparation and perpetuation of maps, record plats, field note records, and property descriptions that represent these surveys.

(1) The term 'practice of land surveying' shall not be construed to permit the design or preparation of specifications for (A) major highways; (B) wastewater systems; (C) wastewater or industrial waste treatment works; (D) pumping or lift stations; (E) water supply, treatment, or distribution systems; (F) streets or storm sewer systems except as incidental to a subdivision.

"§ 89-4. *State Board of Registration; appointments; terms.*—A State Board of Registration for Professional Engineers and Land Surveyors, whose duty it shall be to administer the provisions of this act, is hereby created. The board shall consist of four professional engineers and three registered land surveyors who shall be appointed by the Governor. No more than one of the land surveyor members shall hold dual registration as a registered land surveyor and a professional engineer. Appointments shall preferably, but not necessarily, be selected from a list of nominees submitted by the professional societies for engineers and land surveyors in this State. Each member of the board shall receive a certificate of appointment from the Governor and shall file with the Secretary of State his written oath or affirmation for the faithful discharge of his duties. Notwithstanding any provision of this act, the present members of the board shall continue in office as members of the board until their present terms expire. Appointments to the board shall be in such a manner that the terms of the several members will continue to expire at differing times. On the expiration of the term of any member, the Governor shall, in the manner provided herein, appoint for a term of five years a professional engineer or land surveyor having the qualifications required by G.S. 89-5. A member may be appointed for no more than two full terms. Each member shall hold office until the expiration of the term for which appointed or until his successor has been duly appointed and qualified. If a vacancy on the board, due to resignation, death or any other cause, results in an unexpired term, and such vacancy is not filled within 90 days, the board may appoint a provisional member to serve until the appointment by the Governor becomes effective. Provided, such provisional member shall have all the power and duties of a regularly appointed member of the board pending the appointment by the Governor.

"§ 89-5. *Board members; qualifications.*—Each engineer member of the board shall be a citizen of the United States, shall be a resident of North Carolina and shall be a registered professional engineer engaged in the lawful practice of engineering in North Carolina for at least two years.

Each land surveyor member of the board shall be a citizen of the United States, shall be a resident of North Carolina and shall be a registered land surveyor engaged in the lawful practice of land surveying in North Carolina for at least two years.

"§ 89-6. *Compensation and expenses of board members.*—Each member of the board, when attending to the work of the board or any of its committees, shall receive as compensation for his service the per diem and, in addition thereto,

shall be reimbursed for travel expenses and incidentals not exceeding the maximum set forth by law. In addition to per diem allowances, travel and incidentals, the secretary may, with the approval of the board, receive such reasonable additional compensation as is compatible with the actual hours of work required by the duties of his office.

"§ 89-7. *Vacancies; removal of member.*—The Governor may remove any member of the board for misconduct, incompetency, neglect of duty, or any sufficient cause, in the manner prescribed by law for removal of State officials. Vacancies in the membership of the board shall be filled for the unexpired term by appointment by the Governor as provided in G.S. 89-4.

"§ 89-8. *Organization of the board; meetings; election of officers.*—The board shall hold at least two regular meetings each year. Special meetings may be held at such times and upon such notice as the rules and regulations of the board may provide. The board shall elect annually from its members a chairman, a vice-chairman, and a secretary. A quorum of the board shall consist of not less than five members. The board shall operate under its rules and regulations supplemented by Robert's Rules of Order.

"§ 89-9. *Executive secretary, duties and liabilities.*—The board shall employ an executive secretary who is not a member of the board. The executive secretary shall be a full-time employee of the board and perform such duties assigned to him by the secretary subject to the approval of the board. The executive secretary shall receive a salary and compensation fixed by the board. The executive secretary shall give a surety bond satisfactory to the board conditioned upon the faithful performance of his duties. The premium on said bond shall be a necessary and proper expense of the board.

"§ 89-10. *Board powers.*—(a) The board shall have the power to adopt and amend all rules and regulations. Additionally, the board shall have the power to adopt such rules, rules of procedure, and regulations, as may be reasonably necessary for the proper performance of its duties, the regulation of its procedures, meetings, records, the giving of examinations and the conduct thereof, and the power to enforce such rules of professional conduct as may, from time to time, be adopted by the board pursuant to G.S. 89-20.

The action by the board in carrying out any of the powers specified above shall be binding upon all persons registered under this act, including corporations holding Certificates of Authorization.

(b) The board shall adopt and have an official seal, which shall be affixed to each certificate issued.

(c) The board is hereby authorized in the name of the State to apply for relief, by injunction, in the established manner provided in cases of civil procedure, without bond, to enforce the provisions of this act, or to restrain any violation thereof. In such proceedings, it shall not be necessary to allege or prove either that an adequate remedy at law does not exist, or that substantial or irreparable damage would result from the continued violation thereof. The members of the board shall not be personally liable under this proceeding.

(d) The board may subject an applicant for registration to such examination as it deems necessary to determine his qualifications.

(e) The board shall have the power to issue an appropriate certificate of registration to any applicant who, in the opinion of the board, has met the requirements of this statute.

(f) It shall be the responsibility and duty of the board to conduct a regular program of investigation concerning all matters within its jurisdiction under the provisions of this Chapter. The board may expend its funds for salaries, fees, and per diem expenses, in connection with its investigations, provided that no such funds other than per diem expenses shall be paid to any member of the board in connection with its investigations, nor may any member of the board give testimony and thereafter sit in deciding on any matter which may directly involve punitive action under such testimony.

(g) The board is authorized and empowered to use its funds to establish and conduct instructional programs for persons who are currently registered to practice engineering or land surveying, as well as refresher courses for persons interested in obtaining adequate instruction or programs of study to qualify them for registration to practice engineering or land surveying. The board may expend its funds for these purposes and is authorized and empowered not only to conduct, sponsor, and arrange for instructional programs, but also to carry out such programs through extension courses or other media, and the board may enter into plans or agreements with community colleges, institutions of higher learning, both public and private, State and county boards of education, or with the governing authority of any industrial education center for the purpose of planning, scheduling or arranging such courses, instruction, extension courses, or in assisting in obtaining courses of study or programs in the field of engineering and land surveying. For the purpose of carrying out these objectives, the board is authorized to make and promulgate such rules and regulations as may be necessary for such educational programs, instruction, extension services, or for entering into plans or contracts with persons or educational and industrial institutions.

"§ 89-11. *Secretary, duties, and liabilities; expenditures.*—The secretary of the board shall receive and account for all monies derived from the operation of the board as provided in this Chapter, and shall deposit them in one or more special funds in banks or other financial institutions carrying deposit insurance and authorized to do business in North Carolina. The fund or funds shall be designated as 'Fund of the Board of Registration for Professional Engineers and Land Surveyors' and shall be drawn against only for the purpose of implementing provisions of this Chapter as herein provided. All expenses certified by the board as properly and necessarily incurred in the discharge of its duties, including authorized compensation, shall be paid out of said fund on the warrant signed by the secretary of the board; provided, however, that at no time shall the total of warrants issued exceed the total amount of funds accumulated under this Chapter. The secretary of the board shall give a surety bond satisfactory to the State Board of Registration for Professional Engineers and Land Surveyors, conditioned upon the faithful performance of his duties. The premium on said bond shall be regarded as a proper and necessary expense of the board. The secretary of the board may delegate to the executive secretary certain routine duties, such as receipt and disbursement of funds in stated amounts by a written authorization, which nas the unanimous approval of the board.

"§ 89-12. *Records and reports of board; evidence.*—The board shall keep a record of its proceedings and a register of all applicants for registration, showing for each the date of application, name, age, education, and other qualifications, place of business and place of residence, whether the applicant was rejected or a

certificate of registration granted, and the date of such action. The books and register of the board shall be prima facie evidence of all matters recorded therein, and a copy duly certified by the secretary of the board under seal shall be admissible in evidence as if the original were produced. A roster showing the names and places of business and of residence of all registered professional engineers and all registered land surveyors shall be prepared by the secretary of the board current to the month of January of each year; such roster shall be printed by the board out of the fund of said board and distributed as set forth in the rules and regulations. On or before the first day of May of each year, the board shall submit to the Governor a report on its transactions for the preceding year, and shall file with the Secretary of State a copy of such report, together with a complete statement of the receipts and expenditures of the board, attested by the affidavits of the chairman and the secretary, and a copy of the said roster of registered professional engineers and registered land surveyors.

"§ 89-13. *General requirements for registration.*—(a) Engineer applicant. To be eligible for admission to examination for professional engineer an applicant must be of good character and reputation. An applicant desiring to take the examination in the fundamentals of engineering only must submit three character references. An applicant desiring to take the examination in the principles and practice of engineering must submit five references, two of whom shall be professional engineers having personal knowledge of his engineering experiences.

The following shall be considered as minimum evidence satisfactory to the board that the applicant is qualified for registration:

(1) As a professional engineer.

(aa) Registration by comity or endorsement. A person holding a certificate of registration to engage in the practice of engineering, on the basis of comparable qualifications, issued to him by a proper authority of a state, territory, or possession of the United States, the District of Columbia, or of Canada, who in the opinion of the board, meets the requirements of this act, based on verified evidence may, upon application, be registered without further examination.

A person holding a Certificate of Qualification issued by the Committee on National Engineering Certification of the National Council of Engineering Examiners, whose qualifications meet the requirements of this act, may upon application, be registered without further examination.

(bb) EIT certificate, experience, and examination. A holder of a certificate of engineer-in-training issued by the board, and with a specific record of an additional four years or more of progressive experience on engineering projects of a grade and character which indicates to the board that the applicant may be competent to practice engineering, shall be admitted to an eight-hour examination in the principles and practices of engineering. Upon passing such examination, the applicant shall be granted a certificate of registration to practice professional engineering in this State, provided he is otherwise qualified.

(cc) Graduation, experience, and examination. A graduate of an engineering curriculum of four years or more approved by the board as being of satisfactory standing, and with a specific record of an additional four years or more of progressive experience on engineering

projects of a grade and character which indicates to the board that the applicant may be competent to practice engineering, shall be admitted to an eight-hour written examination in the fundamentals of engineering, and an eight-hour written examination in the principles and practices of engineering. Upon passing such examinations, the applicant shall be granted a certificate of registration to practice professional engineering in this State, provided he is otherwise qualified.

(dd) Graduation, experience, and examination. A graduate of an engineering or related science curriculum of four years or more, other than the ones approved by the board as being of satisfactory standing or with an equivalent education and engineering experience satisfactory to the board and with a specific record of eight years or more of progressive experience on engineering projects of a grade and character which indicates to the board that the applicant may be competent in the fundamentals of engineering, shall be admitted to an eight-hour written examination in the fundamentals of engineering, and an eight-hour written examination in the principles and practices of engineering. Upon passing such examinations, the applicant shall be granted a certificate of registration to practice professional engineering in this State, provided he is otherwise qualified.

(ee) Long established practice. An individual with a specific record of 20 years or more of progressive experience on engineering projects of a grade and character which indicates to the board that the applicant may be competent to practice engineering shall be admitted to an eight-hour written examination in the principles and practice of engineering. Upon passing such examination, the applicant shall be granted a certificate of registration to practice professional engineering in this State, provided he is otherwise qualified.

At its discretion the board may require an applicant to submit exhibits, drawings, designs, or other tangible evidence of engineering work executed by him and which he personally accomplished or supervised.

The following shall be considered as minimum evidence that the applicant is qualified for certification:

(2) As an engineer-in-training.

(aa) Graduation and examination. A graduate of an engineering curriculum or related science curriculum of four years or more, approved by the board as being of satisfactory standing, shall be admitted to an eight-hour written examination in the fundamentals of engineering. The applicant shall be notified if the examination was passed or not passed and if passed he shall be certified as an engineer-in-training, if he is otherwise qualified.

(bb) Graduation, experience, and examination. A graduate of an engineering or related science curriculum of four years or more, other than the ones approved by the board as being of satisfactory standing, or with equivalent education and engineering experience satisfactory to the board and with a specific record of four or more years of progressive experience on engineering projects of a grade and character satisfactory to the board, shall be admitted to an eight-hour written examination in the fundamentals of engineering. The

applicant shall be notified if the examination was passed or not passed and if passed he shall be certified as an engineer-in-training if he is otherwise qualified.

(b) Land surveyor applicant. To be eligible for admission to examination for land surveyor-in-training, or registered land surveyor, an applicant must be of good character and reputation and shall submit five references with his application for registration as a land surveyor, two of which references shall be registered land surveyors having personal knowledge of his land surveying experience, or in the case of an application for certification as a land surveyor-in-training by three references, one of which shall be a registered land surveyor having personal knowledge of the applicant's land surveying experience.

The evaluation of a land surveyor applicant's qualifications shall involve a consideration of his education, technical and land surveying experience, exhibits of land surveying projects with which he has been associated, recommendations by references, and reviewing of these categories during an oral examination. The land surveyor applicant's qualifications may be reviewed at an interview if the board deems it necessary. Educational credit for institute courses, correspondence courses, etc., shall be determined by the board.

The following shall be considered a minimum evidence satisfactory to the board that the applicant is qualified for registration as a land surveyor or for certification as a land surveyor-in-training, respectively.

(1) As a registered land surveyor.

(aa) Rightful possession of a B.S. degree in surveying or other equivalent curricula, all approved by the board and a record satisfactory to the board of one year or more of progressive practical experience one year of which shall have been under a practicing registered land surveyor and satisfactorily passing such oral and written examination, taken in the presence of and required by the board, all of which shall determine and indicate that the candidate is competent to practice land surveying.

(bb) Rightful possession of an associate degree in surveying technology or civil engineering technology approved by the board or with equivalent education and surveying experience satisfactory to the board, and a record satisfactory to the board of three years of progressive practical experience, two years of which shall have been under a practicing registered land surveyor, and satisfactorily passing such written and oral examination taken in the presence of and as required by the board, all of which shall determine and indicate that the candidate is competent to practice land surveying. Anyone who, on or before September 1, 1976, possessed an associate degree in surveying technology, previously approved by the board, may be considered for examination with two years of experience which shall have been under a practicing registered land surveyor.

(cc) Land surveyor-in-training certificate, experience, and examination. A holder of a certificate of land surveyor-in-training issued by the board, and with a specific record of an additional two years or more of progressive surveying experience, one year of which shall have been under a practicing registered land surveyor, of a grade and character which indicates to the board that the applicant may be competent to practice land surveying, shall be admitted to two four-hour

examinations. Upon passing such examinations, the applicant shall be granted a certificate of registration to practice land surveying in this State, provided he is otherwise qualified.

(dd) Graduation from a high school or the completion of a high school equivalency certificate and a record satisfactory to the board of six years of progressive practical experience, four years of which shall have been under a practicing registered land surveyor, and satisfactorily passing such oral and written examination written in the presence of and required by the board, all of which shall determine and indicate that the candidate is competent to practice land surveying.

(ee) The board shall require an applicant to submit exhibits, drawings, plats, or other tangible evidence of land surveying work executed by him under proper supervision and which he has personally accomplished or supervised.

(ff) Registration by comity or endorsement. A person holding a certificate of registration to engage in the practice of land surveying issued on comparable qualifications from a state, territory, or possession of the United States will be given comity considerations. However, he may be asked to take such examinations as the board deems necessary to determine his qualifications, but in any event he shall be required to pass a written examination of not less than four hours duration, which shall include questions on laws, procedures, and practices pertaining to the practice of land surveying in North Carolina.

(gg) A licensed professional engineer who can satisfactorily demonstrate to the board that his formal academic training in acquiring a degree and field experience in engineering includes land surveying, to the extent necessary to reasonably qualify the applicant in the practice of land surveying, may apply for and may be granted permission to take the two four-hour examinations on the principles and practices of land surveying. Upon satisfactorily passing the examinations, the applicant will be granted a license to practice land surveying in the State of North Carolina.

(hh) Professional engineers in land surveying. Any person presently licensed to practice professional engineering under this Chapter shall upon his application be licensed to practice land surveying, providing his written application is filed with the board within one year next after the effective date of this act.

(2) As a land surveyor-in-training:

(aa) Rightful possession of an associate degree in surveying technology approved by the board or with equivalent education and surveying experience satisfactory to the board, and a record satisfactory to the board of one year of progressive practical experience under a practicing registered land surveyor, and satisfactorily passing such written and oral examination taken in the presence of and as required by the board.

(bb) Rightful possession of a B.S. degree in surveying or other equivalent curricula in surveying, all approved by the board and satisfactorily

passing such oral and written examination written in the presence of and required by the board.

(cc) The board shall require an applicant to submit exhibits, drawings, plats, or other tangible evidence of land surveying work executed by him under proper supervision and which he has personally accomplished or supervised.

"§ 89-14. *Application for registration; registration fees.*—(a) Application for registration as a professional engineer, or registered land surveyor shall be on a form prescribed and furnished by the board. It shall contain statements made under oath, showing the applicant's education and a detailed summary of his technical and engineering or land surveying experience, and shall include the names and complete mailing addresses of the references, none of whom should be members of the board.

The board may accept the certified information on the copy of a current formal certificate of qualifications issued by the National Council of Engineering Examiners Committee or National Engineering Certification for Professional Engineer applicants in lieu of the same information that is required for the form prescribed and furnished by the board.

(b) The registration fee shall be established by the board in amounts not to exceed seventy dollars ($70.00) for an engineer or seventy dollars ($70.00) for registration as a land surveyor which shall accompany the applications. The fee for comity registration of engineers and land surveyors who hold unexpired certificates in another state or a territory of the United States or in Canada shall be the total current fee as fixed by the board.

(c) The certification fee for a corporation (see Section 89-24) shall be in accordance with G.S. 55B.

(d) Should the board deny the issuance of a certificate of registration to any applicant, the unobligated portion of fees paid shall be returned by the board to the applicant.

(e) A candidate failing an examination may apply, and be considered by the board, for reexamination at the end of six months. The board shall make such reexamination charge as is necessary to defray the cost of the examination provided the charge for any reexamination shall not exceed twenty dollars ($20.00).

A candidate failing an examination three times will not be permitted to take a reexamination until he has made a written appeal to the board and his tentative qualifications for the examination are reviewed and reaffirmed by the board.

"§ 89-15. *Examinations.*—(a) The examinations will be held at such times and places as the board directs. The board shall determine the passing grade on examinations. All examinations shall be approved by the entire board.

(b) Written examinations will be given in sections and may be taken only after the applicant has met the other minimum requirements as given in G.S. 89-13, and has been approved by the board for admission to the examination as follows:

(1) Engineering fundamentals. Consists of an eight-hour examination on the fundamentals of engineering. Passing this examination qualifies the examinee for an engineer-in-training certificate, provided he has met all other requirements for certification required by this act.

(2) Principles and practice of engineering. Consists of an eight-hour

examination on applied engineering. Passing this examination qualifies the examinee for registration as a professional engineer, provided he has met the other requirements for registration required by this act.

(3) Surveying fundamentals. Consists of two four-hour examinations on the elementary disciplines of land surveying. Passing both of these examinations qualifies the examinee for a land surveyor-in-training certificate provided he has met all other requirements for certification required by this act.

(4) Principles and practices of land surveying. Consists of two four-hour examinations on the basic and applied disciplines of land surveying, one examination on basic disciplines and the other examination covering applied disciplines. Passing each of these examinations qualifies the examinee for a registered land surveyor certificate provided he has met all other requirements for certification required by this act.

"§ 89-16. *Certificates of registration; effect; seals.*—(a) The board shall issue to any applicant, who, in the opinion of the board, has met the requirements of this act, a certificate of registration giving the registrant proper authority to practice his profession in this State. The certificate of registration for a professional engineer shall carry the designation 'professional engineer', and for a land surveyor, 'registered land surveyor' shall give the full name of the registrant with his serial number and shall be signed by the chairman and the secretary under the seal of the board.

(b) This certificate shall be prima facie evidence that the person named thereon is entitled to all rights, privileges and responsibilities of a professional engineer or a registered land surveyor, while the said certificate of registration remains unrevoked or unexpired.

(c) Each registrant hereunder shall upon registration obtain a seal of a design authorized by the board bearing the registrant's name, serial number, and the legend, 'professional engineer', or 'registered land surveyor'. Final drawings, specifications, plans, and reports prepared by a registrant shall, when issued, be certified and stamped with the said seal or facsimile thereof unless the registrant is exempt under the provisions of G.S. 89-25(g). It shall be unlawful for a registrant to affix, or permit his seal and signature or facsimile thereof to be affixed to any drawings, specifications, plans, or reports after the expiration of a certificate or for the purpose of aiding or abetting any other person to evade or attempt to evade any provision of this act. A professional engineer practicing land surveying shall use his registered land surveyor seal.

"§ 89-17. *Expirations and renewals of certificates.*—Certificates for registration shall expire on the last day of the month of December next following their issuance or renewal, and shall become invalid on that date unless renewed. It shall be the duty of the secretary of the board to notify by mail every person, registered hereunder, of the date of the expiration of his certificate and the amount of the fee required for its renewal for one year; such notice shall be mailed at least one month in advance of the date of expiration of such certificate. Renewal shall be effected at any time during the month of January immediately following, by payment to the secretary of the board of a renewal fee, as determined by the board, which shall not exceed fifteen dollars ($15.00). Failure on the part of any registrant to renew his certificate annually in the month of January, as required above, shall deprive the registrant of the right to practice until renewal has been effected. Renewal may be effected at any time

during the first 36 months immediately following its invalidation of payment of the renewal fee increased ten percent (10%) for each month or fraction of a month that payment for renewal is delayed. Failure of a registrant to renew his registration for a period of 36 months shall require the individual, prior to resuming practice in North Carolina, to submit an application therefor on the prescribed form, and to meet all other requirements for registration as set forth in G.S. 89. The secretary of the board is instructed to remove from the official roster of engineers and land surveyors the names of all registrants who have not effected their renewal by the first day of February immediately following the date of their expiration. The board may enact rules to provide for renewals in distress or hardship cases due to military service, prolonged illness, or prolonged absence from the State, where the applicant for renewal demonstrates to the board that he has maintained his active knowledge and professional status as an engineer or land surveyor, as the case may be. It shall be the responsiblity of each registrant to inform the board promptly concerning change in address.

"§ 89-18. *Reissuance of certificates.*—A new certificate of registration, or certificate of authorization, to replace any certificate lost, destroyed, or mutilated, may be issued, subject to the rules of the board. A charge of five dollars ($5.00) shall be made for such issuance.

"§ 89-19. *Public works; requirements where public safety involved.*—This State and its political subdivisions such as counties, cities, towns, or other political entities or legally constituted boards, commissions, public utility companies, or authorities, or officials, or employees thereof shall not engage in the practice of engineering or land surveying involving either public or private property where the safety of the public is directly involved without the project being under the supervision of a professional engineer for the preparations of plans and specifications for engineering projects, or a registered land surveyor for land surveying projects, as provided for the practice of the respective professions by this act.

An official or employee of the State or any political subdivision specified in this section, holding the positions set out in this section as of the effective date of this act, shall be exempt from the provisions of this section so long as such official or employee is engaged in substantially the same type of work as is involved in his present position.

Nothing in this section shall be construed to prohibit inspection, maintenance and service work done by employees of the State of North Carolina, any political subdivision thereof, or any municipality therein including construction, installation, servicing, and maintenance by regular full-time employees of, secondary roads and drawings incidental thereto, streets, street lighting, traffic control signals, police and fire alarm systems, waterworks, steam, electric and sewage treatment and disposal plants, the services of superintendents, inspectors or foremen regularly employed by the State of North Carolina or any political subdivision thereof, or municipal corporation therein.

The provisions in this section shall not be construed to alter or modify the requirements of Article 1 of Chapter 133 of the General Statutes.

"§ 89-20. *Rules of professional conduct.*—In the interest of protecting the safety, health, and welfare of the public, the board shall promulgate and adopt rules of professional conduct applicable to practice of engineering and land surveying. These rules, when adopted, shall be construed to be a reasonable exercise of the police power vested in the Board of Registration for Professional

Engineers and Land Surveyors. The currently effective rules shall be published in the Annual Register. Every person registered by the board shall subscribe to and observe the adopted rules as the standard of professional conduct for the practice of engineering and land surveying. In the case of violation of the rules of professional conduct, the board shall have the responsibility and duty to proceed in accordance with G.S. 89-22 and Article 3 of Chapter 150 of the General Statutes.

"§ 89-21. *Disciplinary action; reexamination, revocation, suspension, reprimand, or fine.*—(a) The board may suspend, refuse to renew, or revoke the certificate of registration, require reexamination, or levy a fine not in excess of five hundred dollars ($500.00) for any engineer or land surveyor, who is found:

(1) Guilty of the practice of any fraud or deceit in obtaining a certificate of registration or certificate of authorization.

(2) Guilty of any gross negligence, incompetence, or misconduct, in the practice of his profession. In the event the board finds that a certificate holder is incompetent the board may, in its discretion, require oral or written examinations, or other indication of the certificate holder's fitness to practice his profession and to suspend his license during any such period.

(3) Guilty of any felony or any crime involving moral turpitude.

(4) Guilty of violation of the Rules of Professional Conduct, as adopted by the board.

(5) To have been declared insane or incompetent by a court of competent jurisdiction and has not thereafter been lawfully declared sane or competent.

(b) The board shall have the power to (1) revoke a certificate of authorization, or (2) to suspend a certificate of authorization for a period of time not exceeding two years, of any corporation where one or more of its officers or directors have committed any act or have been guilty of any conduct which would authorize a revocation or suspension of their certificates of registration under the provision of this section.

"§ 89-22. *Disciplinary action; charges; procedure.*—(a) Any person may prefer charges of fraud, deceit, gross negligence, incompetence, misconduct, or violation of the rules of professional conduct, against any individual registrant or against any corporation holding a certificate of authorization. Such charges shall be in writing and shall be sworn to by the person or persons making them and shall be filed with the secretary of the board.

(b) All charges, unless dismissed by the board as unfounded or trivial, shall be heard by the board within three months after the date on which they shall have been referred.

(c) If, after such hearing, a majority of the entire board votes in favor of sustaining the charges, the board shall reprimand, suspend, refuse to renew, or revoke the individual's certificate of registration, or a corporation's certificate of authorization.

(d) An individual registrant having a certificate of registration, or corporation holding a certificate of authorization, aggrieved by a final decision of the board, may appeal for judicial review as provided by Article 4 of Chapter 150A.

(e) The board may, upon petition of an individual or corporation, whose certificate has been revoked, for reasons it may deem sufficient, reissue a

certificate of registration or authorization, provided that a majority of the members of the board vote in favor of such issuance.

"§ 89-23. *Unlawful to practice engineering or land surveying without registration; unlawful use of title or terms; penalties; Attorney General to be legal adviser.*—Any person who shall practice, or offer to practice, engineering or land surveying in this State without first being registered in accordance with the provisions of this act, or any person, firm, partnership, organization, association, corporation, or other entity using or employing the words 'engineer' or 'engineering' or professional engineer or professional engineering or 'land surveyor' or 'land surveying', or any modification or derivative thereof in its name or form of business or activity except as registered under this act or in pursuit of activities exempted by this act, or any person presenting or attempting to use the certificate of registration or the seal of another, or any person who shall give any false or forged evidence of any kind to the board or to any member thereof in obtaining or attempting to obtain a certificate of registration, or any person who shall falsely impersonate any other registrant of like or different name, or any person who shall attempt to use an expired or revoked or nonexistent certificate of registration, or who shall practice or offer to practice when not qualified, or any person who falsely claims that he is registered under this act, or any person who shall violate any of the provisions of this act, in addition to injunctive procedures set out hereinbefore, shall be guilty of a misdemeanor, and may, upon conviction, be sentenced to pay a fine not less than one hundred dollars ($100.00), nor more than one thousand dollars ($1,000), or suffer imprisonment for a period not exceeding three months, or both in the discretion of the court. In no event shall there be representation of or holding out to the public of any engineering expertise by unregistered persons. It shall be the duty of all duly constituted officers of the State and all political subdivisions thereof to enforce the provisions of this act and to prosecute any persons violating same.

The Attorney General of the State or his assistant shall act as legal adviser to the board and render such legal assistance as may be necessary in carrying out the provisions of this act. The board may employ counsel and necessary assistance to aid in the enforcement of this act, and the compensation and expenses therefor shall be paid from funds of the board.

"§ 89-24. *Corporate or partnership practice of engineering or land surveying.*—A corporation or partnership may engage in the practice of engineering or land surveying in this State; provided, however, the person or persons connected with such corporation or partnership in charge of the designing or supervision which constitutes such practice is or are registered as herein required of professional engineers and registered land surveyors. The same exemptions shall apply to corporations and partnerships as apply to individuals under this Chapter, provided further, that all corporations hereunder shall be subject to the provisions of Chapter 55B of the General Statutes of North Carolina.

"§ 89-25. *Limitations on application of Chapter.*—This Chapter shall not be construed to prevent or affect: (a) The practice of Architecture, Landscape Architecture, or Contracting or any other legally recognized profession or trade; or

(b) The practice of professional engineering or land surveying in this State or by any person not a resident of this State and having no established place of

business in this State when this practice does not aggregate more than 90 days in any calendar year, whether performed in this State or elsewhere, or involve more than one specific project; provided, however, that such person is legally qualified by registration to practice the said profession in his own state or country, in which the requirements and qualifications for obtaining a certificate of registration are satisfactory to the board; in which case the person shall apply for and the board will issue a temporary permit; or

(c) The practice of professional engineering or land surveying in this State not to aggregate more than 90 days by any person residing in this State, but whose residence has not been of sufficient duration for the board to grant or deny registration; provided, however, such person shall have filed an application for registration as a professional engineer or registered land surveyor and shall have paid the fee provided for in G.S. 89-14, and provided that such a person is legally qualified by registration to practice professional engineering or land surveying in his own state or country in which the requirements and qualifications for obtaining a certificate of registration are satisfactory to the board, in which case the person shall apply for and the board will issue a temporary permit; or

(d) Engaging in engineering or land surveying as an employee or assistant under the responsible charge of a professional engineer or registered land surveyor or as an employee or assistant of a nonresident professional engineer or a nonresident registered land surveyor, provided for in paragraphs (b) and (c) of this section, provided that said work as an employee may not include responsible charge of design or supervision; or

(e) The practice of professional engineering or land surveying by any person not a resident of, and having no established place of business in this State, as a consulting associate of a professional engineer or registered land surveyor registered under the provisions of this Chapter; provided, the nonresident is qualified for such professional service in his own State or country; or

(f) Practice by members of the armed forces or employees of the government of the United States while engaged in the practice of engineering or land surveying solely for said government on government-owned works and projects; or

(g) The internal engineering or surveying activities of a person, firm or corporation engaged in manufacturing, processing, or producing a product, including the activities of public service corporations, public utility companies, authorities, State Agencies, railroad, or membership cooperatives, or the installation and servicing of their product in the field; or research and development in connection with the manufacture of that product or their service; or of their research affiliates; or their employees in the course of their employment in connection with the manufacture, installation, or servicing of their product or service in the field, or on-the-premises maintenance of machinery, equipment, or apparatus incidental to the manufacture or installation of the product or service of a firm by the employees of the firm upon property owned, leased or used by the firm; inspection, maintenance and service work done by employees of the State of North Carolina, any political subdivision thereof, or any municipality therein including construction, installation, servicing, maintenance by regular full-time employees of streets, street lighting, traffic control signals, police and fire alarm systems, waterworks, steam, electric and sewage treatment and disposal plants; the services of

superintendents, inspectors or foremen regularly employed by the State of North Carolina or any political subdivision thereof, or municipal corporation therein; provided, however, that the internal engineering or surveying activity is not a holding out to or an offer to the public of engineering or any service thereof as prohibited by this act. Engineering work, not related to the foregoing exemptions, where the safety of the public is directly involved shall be under the responsible charge of a registered professional engineer, or in accordance with standards prepared or approved by a registered professional engineer.

(h) The performance of internal engineering or survey work by a manufacturing or communications common carrier company, or by a research and development company, or by employees of such corporations provided that such work is in connection with, or incidental to products of, or non-engineering services rendered by such corporations or their affiliates.

(i) The routine maintenance or servicing of machinery, equipment, facilities or structures, the work of mechanics in the performance of their established functions, or the inspection or supervision of construction by a foreman, superintendent, or agent of the architect or professional engineer, or services of an operational nature performed by an employee of a laboratory, a manufacturing plant, a public service corporation, or governmental operation.

"§ 89-26. *Duties of register of deeds.*—It shall be unlawful for the recorder of deeds or the register of titles or any county or proper public authority, to file or record any map, plat, survey, or other documents, within the definition of land surveying, which do not have impressed thereon, and affixed thereto, the personal signature and seal of a registered land surveyor by whom, or under whose responsible charge the map, plat, survey, or other documents were prepared.

"§ 89-27. *Invalid sections; severability.*—If any of the provisions of this act, or if any rule, regulation or order thereunder, or if the application of such provision to any person or circumstance shall be held invalid, the remainder of this act and the application of such provision of this act or rule, regulation or order to persons or circumstances, other than those as to which it is held valid, shall not be affected thereby.

"§ 89-28. *Existing registration not affected.*—Nothing in this Chapter shall be construed as affecting the status of registration of any professional engineer or registered land surveyor who is rightfully in possession of a certificate of registration duly issued by the board and valid as of July 1, 1975."

Sec. 2. All laws and clauses of law in conflict with this act are repealed. Nothing herein, however, shall be construed to repeal any of the provisions of Chapters 150, 150A, or 93B of the General Statutes.

Sec. 3. This act shall become effective from and after its ratification.

In the General Assembly read three times and ratified, this the 19th day of June, 1975.

S. B. 605 **CHAPTER 682**

AN ACT TO ENCOURAGE USEFUL WORK BY PRISON INMATES, USING THE PRESENT POWER OF THE SECRETARY OF CORRECTION TO ENTER INTO CONTRACTS INVOLVING INMATE LABOR.

The General Assembly of North Carolina enacts:

Section 1. This act shall be known as the "Inmate Labor Act of 1975."

Sec. 2. G.S. 148-26(a) is amended by adding the following language at the end:

"In exercising his power to enter into contracts to supply inmate labor as provided by this section, the Secretary of Correction shall not assign any inmate to work under any such contract who is eligible for work release as provided in this Article, study release as provided by G.S. 148-4(4), or who is eligible for a program of Vocational Rehabilitation Services through the State Vocational Rehabilitation Agency, unless suitable work release employment or educational opportunity cannot be found for the inmate, and the inmate is not eligible for a program of Vocational Rehabilitation Services through the State Vocational Rehabilitation Agency, and shall not agree to supply inmate labor for any project or service unless it meets all of the following criteria:

(1) The project or service involves a type of work that inmates are qualified to do;

(2) The project or service is of benefit to the citizens of North Carolina or units of State or local government thereof;

(3) The project or service is not one that would normally be performed by private industry or noninmate labor if inmate labor were not available.

(4) Wages shall be paid in an amount not exceeding one dollar ($1.00) per day per inmate by the local or State contracting agency."

Sec. 3. G.S. Chapter 148, Article 3, is amended by adding the following new sections between G.S. 148-26 and G.S. 148-27.

"§ 148-26.1. *Definitions.*—The following definitions apply:

(1) 'Area command' or 'area':

(a) This term refers to one of the six geographic areas into which the State is now divided for prison administrative purposes, and is defined only for the purpose of establishing area inmate labor commissions, as provided by G.S. 148-26.2. The definition does not restrict the authority of the Secretary of Correction to change the geographic organization of the Department of Correction.

(b) The six geographic areas are as follows:

Western Area. Cherokee, Clay, Graham, Macon, Swain, Jackson, Haywood, Transylvania, Henderson, Buncombe, Madison, Yancey, McDowell, Polk, Rutherford, Mitchell, Burke, Avery, Watauga, Caldwell, Ashe, Alleghany, Wilkes, Alexander, Catawba and Cleveland Counties.

North Piedmont Area. Surry, Stokes, Rockingham, Caswell, Yadkin, Forsyth, Guilford, Alamance, Davie, Davidson and Randolph Counties.

South Piedmont Area. Iredell, Rowan, Lincoln, Gaston, Mecklenburg, Cabarrus, Stanley and Union Counties.

North Central Area. Person, Orange, Durham, Chatham, Lee, Granville,

Wake, Vance, Franklin, Johnston, Warren, Northampton, Halifax, Edgecombe, Nash and Wilson Counties.

South Central Area. Anson, Montgomery, Richmond, Moore, Scotland, Hoke, Harnett, Robeson, Cumberland, Bladen, Columbus, Sampson, Brunswick, Pender and New Hanover Counties.

Eastern Area. Wayne, Duplin, Greene, Lenoir, Jones, Onslow, Pitt, Craven, Carteret, Pamlico, Beaufort, Hyde, Martin, Washington, Tyrrell, Dare, Bertie, Hertford, Gates, Chowan, Perquimans, Pasquotank, Camden and Currituck Counties.

(2) 'Area administrator': The administrator of State prison facilities within one of the areas defined in subsection (1) of this section.

(3) 'Unit superintendent': The superintendent of any State prison unit or camp other than Central Prison, the Correctional Center for Women, Blanch Prison, Craggy Prison, Caledonia Prison and Odom Prison.

(4) 'Principal department' or 'department': One of the principal departments of State government enumerated in G.S. 143A-11 and G.S. 143B-6 or one of the constituent institutions of the University of North Carolina defined by G.S. 116-2(4).

(5) 'Department head': The head of one of the principal departments of State government, within the meaning of G.S. 143A-2 or G.S. 143B-10, or the chancellor of any of the constituent institutions of the University of North Carolina as defined by G.S. 116-2(3).

(6) 'Secretary': The Secretary of Correction.

(7) 'Area commission': One of six area inmate labor commissions as defined by G.S. 148-26.2.

(8) 'Local public work project' or 'local public work': A useful service other than the construction of buildings performed on any land, or any structure thereon, belonging to any municipal or county government, including but not limited to parks, campuses, playgrounds, highways, roads, lakes, forests and waterways.

(9) 'State public work project' or 'State public work': A useful service other than the construction of buildings performed on any land, or any structure thereon, belonging to any principal department of State government as defined in subsection (4) above, including, but not limited to, State parks, campuses, playgrounds, highways, roads, lakes, forests and waterways.

"§ 148-26.2. *Area inmate labor commissions.*—(a) Each area commission shall have five members who shall be residents of the area; one shall be appointed by the Secretary of Correction; two shall be appointed by the Governor to represent the League of Municipalities and State community colleges, respectively; two shall be interested and knowledgeable citizens, one appointed by the Lieutenant Governor and one by the Speaker of the House. Each member shall serve a term of four years, and each successor, in the event of death, resignation or expiration of term, shall be appointed in the manner in which the first incumbent was appointed. The first members of the area commissions shall be appointed no later than September 1, 1975.

(b) Each area commission shall select a chairman from its membership. The chairman shall serve a term of one year.

(c) Each area commission shall meet at least four times per year. The Department of Correction shall provide space for meetings of each area commission at the location of the main office of the area administrator.

(d) The general function of each area commission shall be to encourage the constructive employment of State prison inmates in its area on local public work projects by recommending appropriate projects to the secretary. Each unit superintendent shall report to the area commission in his area all proposals for the employment of inmates on specific local public work projects that he may develop on his own initiative or that may be suggested to him by any local government, civic organization or citizen of North Carolina. Each area commission shall consider each proposal, including proposals developed by its members, regarding inmate employment in local public work to determine if it meets the criteria provided by G.S. 148-26(a). If the proposal meets the criteria, the area commission shall forward the proposal and its recommendation in writing to the secretary. The secretary shall have complete discretion to enter into a contract to provide inmate labor for the proposed local public work.

"§ 148-26.3. *State Inmate Labor Commission.*—(a) There shall be a State Inmate Labor Commission consisting of the chairmen of the six area inmate labor commissions as provided by G.S. 148-26.2 and a general chairman appointed by the Governor for a four-year term. In the event of death, resignation or expiration of term, the Governor shall appoint the succeeding general chairman. The first general chairman shall be appointed no later than September 1, 1975.

(b) The State Inmate Labor Commission shall meet at least four times per year in Raleigh in space provided by the Department of Correction. The general chairman shall act as chairman at all meetings. The general chairman and four other members of the commission shall constitute a quorum for the purpose of doing business.

(c) The State Inmate Labor Commission shall recommend to the secretary the employment of State prison inmates on specific State public work projects subject to the following procedure:

(1) Any civic organization, Area Inmate Labor Commission unit superintendent, or citizen of North Carolina may suggest the employment of inmates on a specific State public work project. The suggestion must be made in writing to the department head of the principal department of State government that owns or is primarily responsible for the State land on which the proposed project is to take place.

(2) The department head may in his discretion submit in written form any proposal regarding inmate employment on a specific State public work project affecting his department, whether the proposal is received from others or developed on his own initiative, to the State Inmate Labor Commission.

(3) The State Inmate Labor Commission shall examine each proposal regarding inmate employment on a specific State public work project, whether the proposal is received from others or developed by commission members, to determine whether it meets the criteria provided by G.S. 148-26(a). If the proposal meets the criteria, the commission shall forward the proposal and its recommendation in writing to the secretary. The secretary shall have complete discretion to enter into a contract to provide inmate labor for the proposed State public work.

(d) The State Inmate Labor Commission shall advise the secretary on the employment of State prison inmates, make a written report at least once per year to the secretary and the General Assembly concerning inmate employment throughout the State, make other reports as the secretary may require and may submit proposed legislation to the General Assembly concerning inmate employment.

"§ 148-26.4. Members of the Area Inmate Labor Commissions and the State Inmate Labor Commission shall receive compensation and expense allowance as provided by G.S. 138-5.

"§ 148-26.5. *Pay and time allowances for work.*—The provisions of G.S. 148-18 and G.S. 148-13 shall be applicable to inmate work on local or State public work projects contracted for by the Secretary of Correction as provided by G.S. 148-26 through G.S. 148-26.4. Travel, cost of inmate wages and custodial supervision expenses incurred by the Department of Correction and arising out of a local or State public work project shall be reimbursed on a cost basis to the Department of Correction by the local or State contracting agency."

Sec. 4. Nothing in this act shall be construed as altering or amending G.S. 148-26(b) or G.S. 148-18(a) as set out in Chapter 506 of the 1975 Session Laws.

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of June, 1975.

S. B. 680 CHAPTER 683

AN ACT TO AMEND G.S. 20-183.2(b)(2) RELATING TO AUTOMOBILE INSPECTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-183.2(b)(2) is hereby amended by adding to the end thereof the following proviso:

"Provided further, that a new car dealer may operate a new motor vehicle prior to first sale for customer demonstration purposes only without affixing thereto an inspection certificate as required by this section if such dealer causes an inspection of the equipment enumerated in G.S. 20-183.3 to be made and affixes on the window of the vehicle adjacent to the manufacturer's price list a certificate as near as practical in form and content as follows:

Dealer_____

Dealer license number_____

Vehicle make_____ Year model_____

Vehicle identification number_____

Equipment Item	Check square when inspected and approved
Brakes	☐
Lights	☐
Horn	☐
Steering Mechanism	☐
Windshield Wiper	☐
Directional Signals	☐
Tires	☐
Rear View Mirror	☐

Exhaust System ☐

I certify that the above items of equipment have been inspected and found to be in good working order.

_____

Dealer or Agent"

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 19th day of June, 1975.

S. B. 650 CHAPTER 684

AN ACT TO ADJUST DEPARTMENT OF MOTOR VEHICLES' FEE FOR OPERATOR'S AND CHAUFFEUR'S LICENSE TO RECOVER COST.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-7(i) as the same appears in the 1974 Cumulative Supplement to Volume 1C of the General Statutes is hereby rewritten to read as follows:

"(i) The fee for issuance or reissuance of an operator's license shall be four dollars ($4.00) and the fee for issuance or reissuance of a chauffeur's license shall be five dollars ($5.00)."

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 19th day of June, 1975.

S. B. 695 CHAPTER 685

AN ACT TO PROTECT MINOR CHILDREN WHO ARE INJURED OR DAMAGED IN CERTAIN MOTOR VEHICLE ACCIDENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1-61 is hereby enacted to read as follows:

"§ 1-61. *Abolition of parent-child immunity in motor vehicle cases.*—The relationship of parent and child shall not bar the right of action by a minor child against a parent for personal injury or property damage arising out of the operation of a motor vehicle owned or operated by such parent."

Sec. 2. This act shall become effective October 1, 1975, and apply to causes of action accruing on and after that date.

In the General Assembly read three times and ratified, this the 19th day of June, 1975.

S. B. 701 CHAPTER 686

AN ACT TO AMEND G.S. 115-153 RELATING TO THE ISSUANCE OF REGULAR AND PROBATIONARY CERTIFICATES FOR TEACHERS.

The General Assembly of North Carolina enacts:

Section 1. The first paragraph of G.S. 115-153 is hereby amended by adding the following to the end thereof:

"An applicant for certification making the required minimum score, and meeting such other requirements as may be established by the State Board, shall be issued a regular certificate. An initial applicant for certification failing to meet the required present minimum score, but meeting such other requirements

as may be established by the State Board, shall be issued a probationary certificate, upon the same terms and conditions as regularly certificated personnel with comparable experience, which shall be effective for a period of two years. Any person previously denied certification because of failure to make the present minimum required score, but meeting such other requirements as may be established by the State Board, upon application to the State Board shall be issued a probationary certificate, upon the same terms and conditions as regularly certificated personnel with comparable experience, which shall be effective for a period of two years. The classroom performance of a holder of a probationary certificate, particularly from the standpoint of knowledge of subject matter and the principles and methods of education, shall be regularly and systemically evaluated during the probationary period. Upon completion of the probationary period, the State Board shall review the classroom performance of the probationary teacher and determine whether the teacher has demonstrated that degree of knowledge of subject matter and the principles and methods of education necessary to teach in the public schools of this State. If the teacher has demonstrated sufficient academic competence, the State Board shall issue a regular certificate; if not the probationary certificate shall expire and such teacher shall not be eligible for employment in a teaching position in the public schools. The State Board is hereby authorized, empowered and directed to enact rules and regulations and establish procedures to carry out the purposes of this act."

Sec. 2. This act shall become effective upon ratification and shall expire July 1, 1977.

In the General Assembly read three times and ratified, this the 19th day of June, 1975.

S. B. 839 CHAPTER 687

AN ACT TO INCORPORATE THE VILLAGE OF WALNUT CREEK IN WAYNE COUNTY SUBJECT TO AN ELECTION.

The General Assembly of North Carolina enacts:

Section 1. (a) The Board of Elections in Wayne County is hereby authorized and directed to call and conduct a special election on August 19, 1975, for the purpose of submitting to the qualified voters of the area hereinafter described as the proposed corporate limits of the Village of Walnut Creek, the question of whether or not such area shall be incorporated as a municipal corporation to be known as the Village of Walnut Creek. In conducting the election required to be held by this act, the Board of Elections of Wayne County shall follow the procedures contained in this act and the procedures contained in Chapter 163 of the General Statutes of North Carolina regarding municipal elections, where the same are not in conflict with this act.

(b) Not later than 30 days prior to the date on which the registration books are required to be closed, the Board of Elections in Wayne County shall cause to be published one or more times in a newspaper having general circulation in the Walnut Creek community, a notice stating the time, the polling place, and the purpose of this special election; the names of the registrar and judges of election; and the dates, hours, and place or places of registration. The board of elections may, in its discretion, also cause such notice to be posted in such public place or places as the board may choose.

(c) In the special election, those voters who favor the incorporation of the Village of Walnut Creek as provided in this act shall vote a ballot upon which shall be printed the words: "FOR Incorporation of the Village of Walnut Creek"; and those voters who are opposed to the incorporation of the Village of Walnut Creek as provided in this act shall vote a ballot upon which shall be printed the words: "AGAINST Incorporation of the Village of Walnut Creek".

Sec. 2. If the majority of the votes cast in such special election shall be cast "AGAINST Incorporation of the Village of Walnut Creek", then the "Charter of the Village of Walnut Creek" as set forth in this act shall have no force and effect.

Sec. 3. If a majority of the votes cast in the special election shall be cast "FOR Incorporation of the Village of Walnut Creek", then the "Charter of the Village of Walnut Creek" as set forth in this act shall be in full force and effect from and after the date upon which a certificate of election shall have been issued by the Chairman of the Wayne County Board of Elections in accordance with G.S. 163-301.

Sec. 4. If a majority of the votes cast in such special election shall be cast "FOR Incorporation of the Village of Walnut Creek", then notwithstanding the time limitations contained in the Local Government Budget and Fiscal Control Act (Article 3 of G.S. Chapter 159), the governing body of the Village of Walnut Creek is authorized to consider and adopt a budget ordinance, including a property tax levy, as soon after the effective date of incorporation as is possible. The residents of the Village of Walnut Creek and the property located within the Village of Walnut Creek shall be liable for all municipal taxes imposed by the Village governing body for the fiscal year 1975-76.

Sec. 5. The following provisions of law shall constitute the Charter of the Village of Walnut Creek in Wayne County:

"THE CHARTER OF THE VILLAGE OF WALNUT CREEK.

"ARTICLE I. INCORPORATION AND CORPORATE POWERS.

"Section 1.1. *Incorporation and General Powers.* The inhabitants of the Village of Walnut Creek are a body corporate and politic under the name of the 'Village of Walnut Creek'. Under that name they have all the powers, duties, rights, privileges and immunities conferred and imposed upon municipal corporations by the general law of North Carolina.

"ARTICLE II. CORPORATE BOUNDARIES.

"Section 2.1. *Corporate Boundaries.* The corporate boundaries of the Village of Walnut Creek, until changed in accordance with law, are as follows:

BEGINNING at a point on the South side of U.S. 70 Highway in the eastern property line of Walnut Creek Estates property said point being 50 feet from the center line of said highway and having N. C. State co-ordinance x equals 2,340,561.39 and y equals 573,133.59 and being designated as point A on a map of Walnut Creek Estates Property recorded in Plat Book 9 at Page 69 and runs thence with the Southern edge of said highway S. 62-38-06 E. 300 feet to an iron stake; thence leaving said highway S. 27-22-24 W. 180 feet to a concrete post; thence S. 07-06-42 W. 1100.00 feet to a concrete post; thence S. 11-23-18 E. 425.90 feet to a concrete post; thence S. 12-22-30 W. 313.95 feet to a concrete post; thence S. 22-05-30 W. 815.55 feet to a point; thence N. 78-48-00 E. 679.87 feet to a point; thence S. 11-12-00 E. 165 feet to an iron stake; thence S. 78-48-00 W. 1430.52 feet to a point; thence S. 08-15-00 E. 413.04 feet to a point; thence N. 78-48-00 E. 94.11 feet to an iron stake; thence S. 08-15-00 E.

608.77 feet to a concrete post; thence N. 79-47-35 E. 1359.72 feet to an iron stake; thence N. 09-05-00 W. 27.00 feet to an iron stake; thence N. 79-47-41 E. 662.04 feet to an iron stake on the Western right of way of North Carolina Secondary Road Number 1719; thence with said road right of way S. 24-23-20 E. 665.91 feet to a concrete post in Louis Maxwell and Gordon Maxwell's line and runs thence with said Maxwell's line S. 80-24-27 W. 2203.05 feet to a concrete post; thence continued with said line S. 80-24-27 W. 101.50 feet to an iron stake; thence S. 07-06-42 W. 931.34 feet to an iron stake; thence continued S. 07-06-42 W. 45.00 feet to a point in Mira Branch; thence with said Branch S. 78-02-00 W. 19.17 feet to a point; thence continued with said Branch S. 67-41-24 W. 336.73 feet to a point; thence continued with said Branch S. 41-09-12 W. 448.62 feet to a point in Walnut Creek Branch; thence with said Branch the following courses and distances: S. 17-22-36 E. 189.80 feet, S. 55-40-48 W. 260.73 feet, S. 30-17-18 W. 263.48 feet and S. 35-52-18 E. 361.83 feet to an iron stake in said Branch; thence S. 89-24-54 W. 1050.48 feet to an iron stake; thence N. 17-52-00 W. 361.25 feet to an iron stake; thence N. 89-21-00 W. 493.84 feet to an iron stake; thence S. 19-10-00 W. 196.10 feet to a point; thence N. 76-15-48 W. 1207.61 feet to a point; thence S. 05-28-12 W. 518.70 feet to an iron stake; thence S. 37-16-48 E. 633.29 feet to an iron stake; thence S. 13-22-36 W. 334.32 feet to an iron stake in the line of Deerwood Subdivision; thence with said subdivision line N. 76-37-24 W. 2735.01 feet to an iron stake; thence S. 80-40-00 W. 128.00 feet to an iron stake; thence N. 31-18-00 W. 69.50 feet to an iron stake; thence N. 76-37-24 W. 59.60 feet to an iron stake; thence N. 13-32-30 E. 2025.16 feet to an iron stake; thence N. 88-23-18 W. 1259.00 feet to an iron stake; thence N. 01-56-00 E. 1017.89 feet to a concrete post; thence N. 20-34-39 E. 206.00 feet to a concrete post; thence N. 00-07-25 E. 180.25 feet to a point; thence N. 00-36-04 E. 165.38 feet to a point; thence N. 26-43-56 W. 85.07 feet to a point; thence N. 03-48-39 E. 268.10 feet to a point; thence N. 68-01-17 E. 506.26 feet to an iron stake; thence with the line of James Uzzell Lots, Section One the following courses and distances: N. 31-28-48 W. 146.64 feet, N. 51-01-00 W. 232.04 feet, N. 42-11-20 W. 169.66 feet to an iron stake, N. 27-12-04 W. 515.92 feet to an iron stake and N. 42-57-38 W. 275.00 feet to an iron stake on the Southern edge of North Carolina Secondary Road Number 1728; thence along the edge of said road N. 45-32-04 E. 460.19 feet to an iron stake; thence continued along said road N. 26-48-00 E. 428.30 feet to an iron stake; thence N. 24-45-38 E. 214.12 feet to a point; thence S. 37-55-00 E. 33.00 feet to a point; thence N. 81-56-00 E. 107.15 feet to a point; thence S. 58-50-00 E. 283.85 feet to a point; thence S. 51-09-00 E. 224.40 feet to a point; thence S. 58-10-00 E. 327.00 feet to a point; thence S. 72-25-00 E. 141.05 feet to a point; thence S. 78-50-00 E. 103.10 feet to a point; thence S. 74-01-00 E. 190.95 feet to a point; thence S. 37-51-00 E. 115.70 feet to a point; thence S. 35-46-00 E. 111.4 feet to a point; thence S. 86-14-00 E. 132.00 feet to a point in Cow Branch; thence with said Branch N. 15-03-24 E. 676.19 feet to a point; thence N. 76-24-24 E. 266.96 feet to a point; thence S. 10-29-42 W. 251.85 feet to a point; thence S. 03-55-00 W. 410.77 feet to a point; thence S. 69-07-06 E. 232.44 feet to a point; thence S. 84-31-24 E. 284.46 feet to a point; thence N. 80-14-06 E. 299.36 feet to a point; thence N. 89-33-48 E. 246.71 feet to a point; thence S. 37-41-12 E. 648.90 feet to a point; thence N. 56-50-00 E. 269.81 feet to a point; thence 85.96 feet along a curve to the right of radius 393.74 feet to a corner; thence S. 33-39-48 E. 100.00 feet to a

corner; thence 121.17 feet along a curve to the left of radius 556.75 feet to a corner; thence S. 46-08-00 E. 168.61 feet to a point; thence N. 84-40-18 E. 38.44 feet to a point; thence S. 30-22-30 E. 107.13 feet to a point; thence S. 46-08-00 E. 25.64 feet to a point; thence 217.63 feet with a curve to the right which curve has a radius of 712.96 feet to a stake; thence continued S. 28-38-24 E. 283.37 feet to a corner; thence 203.50 feet with a curve to the right which curve has a radius of 3600.65 feet to a corner; thence S. 25-24-06 E. 136.16 feet to a point; thence N. 61-38-36 E. 118.94 feet to a point; thence N. 24-17-18 E. 498.51 feet to a point; thence N. 17-53-36 E. 1188.45 feet to a point; thence N. 88-57-00 E. 271.21 feet to a point; thence N. 36-57-12 E. 1266.65 feet to a point; thence N. 01-22-36 E. 467.35 feet to a point; thence N. 35-06-36 E. 228.34 feet to a point; thence N. 74-40-36 E. 465.90 feet to a point; thence N. 16-45-00 E. 340.00 feet to a point; thence N. 54-12-05 E. 157.24 feet to a point in Mill Branch and on the South side of U.S. 70 Highway; thence along said road S. 62-38-06 E. 635.05 feet to the point of beginning, containing 888.90 acres more or less.

"ARTICLE III. GOVERNING BODY.

"Section 3.1. *Temporary Officers.* Until the regular municipal election to be held in November of 1975, Sandford Korschun, Al Charbonneau, George Taylor, Margaret Teel, and William Jake Derby are hereby appointed to act as the Council for the Village of Walnut Creek, and they shall possess and may exercise the powers granted to the Village Council until their successors are elected and qualify.

"Section 3.2. *Structure of Governing Body; Number of Members.* The governing body of the Village of Walnut Creek is the Village Council, which has five members.

"Section 3.3. *Manner of Election of the Council.* The qualified voters of the entire Village shall elect the members of the Council.

"Section 3.4. *Term of Office of Members of the Council.* (a) Except for the temporary officers provided for in Section 3.1 of this Charter, and except as provided in subsection (b) of this section of the Charter, the members of the Village Council shall be elected to four-year terms.

(b) At the regular municipal election in 1975, the three persons receiving the highest number of votes for seats on the Council shall be elected to four-year terms; the two persons receiving the next highest number of votes for seats on the Council shall be elected to two-year terms. Beginning at the regular municipal election to be held in 1977, and every four years thereafter, two persons shall be elected to seats on the Council and shall serve four-year terms. Beginning at the regular municipal election to be held in 1979, and every four years thereafter, three persons shall be elected to seats on the Council and shall serve four-year terms.

"Section 3.5. *Election of the Mayor; Term of Office.* At the organizational meeting of the Council following each regular municipal election, the Council shall elect one of its members to serve as its Mayor. The Mayor shall serve as such at the pleasure of the Council.

"ARTICLE IV. ELECTIONS.

"Section 4.1. *Conduct of Village Elections.* Village officers shall be elected on a nonpartisan basis and the results determined by a plurality of the votes cast, as provided by G.S. 163-292.

"ARTICLE V. ADMINISTRATION.

"Section 5.1. *Form of Government.* The Village of Walnut Creek shall operate under the mayor-council form of government as provided in G.S. 160A, Article 7, Part 3.

"ARTICLE VI. REGULATION OF INTOXICATING BEVERAGES.

"Section 6.1. *Authorization for Malt Beverage and Unfortified Wine Election.* Notwithstanding the minimum population requirement of G.S. 18A-52(a), an election is hereby authorized to be held in the Village of Walnut Creek for the purpose of determining whether malt beverages or unfortified wine or both shall be sold in the Village of Walnut Creek. In all other respects, such an election shall be held in accordance with the provisions of G.S. 18A-52 and G.S. 18A-53."

Sec. 6. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of June, 1975.

S. B. 888 CHAPTER 688

AN ACT TO PROVIDE FOR THE DISTRIBUTION OF THE NORTH CAROLINA CODE OF ADMINISTRATIVE REGULATIONS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 150A-63 of the General Statutes of North Carolina is hereby amended by adding two new subsections to be designated subsections (e) and (f) and to read as follows:

"(e) Copies of the compilation, supplements, and recompilations shall be distributed by the Attorney General as soon after publication as practicable, without charge, to the following officials and departments, in the following quantities:

(1) One copy to each clerk of superior court, to be maintained in the county law library in counties having a county law library, or in the clerk's office available for public inspection in counties having no county law library; one copy to each judge of the district and superior courts; one copy to the Chief Judge and each associate justice of the North Carolina Supreme Court; one copy to the Chief Judge and each associate judge of the North Carolina Court of Appeals; one copy each to the Clerk of the Supreme Court and the Clerk of the Court of Appeals; one copy to each district attorney; one copy to the United States Circuit Court of Appeals, Fourth Circuit; one copy to each Judge of Federal District Court who resides in North Carolina; one copy to the Supreme Court of the United States; and one copy to the United States Department of Justice.

(2) Fifteen copies to the officer of the Legislative Services Commission of North Carolina to be made available by him to the members of the General Assembly.

(3) As requested by each major department created by the Executive Organization Acts of 1971 and 1973, the Office of the Governor, Lieutenant Governor, and the Board of Governors of the University, to a limit of 20 copies each. Distribution and maintenance shall be determined by the requesting official or department. Requests shall be limited to need determined by the Attorney General based upon information supplied to him by the requesting official or department.

(4) Four copies each to the libraries of the Supreme Court of North Carolina and the North Carolina Court of Appeals.

(f) The Attorney General shall make available copies of the compilation, and of all supplements, to other persons at a price determined by him to cover publication and mailing costs."

Sec. 2. This act shall become effective on the same date that Chapter 1331 of the 1973 Session Laws becomes effective.

In the General Assembly read three times and ratified, this the 19th day of June, 1975.

S. B. 893 CHAPTER 689

AN ACT TO AMEND G.S. 160A-456(e) AND 153A-376(e) TO REQUIRE REFERENDUM FOR USE OF STATE OR LOCAL TAX MONIES IN COMMUNITY DEVELOPMENT PROGRAMS AND PROJECTS UNLESS EXPENDITURE IS EXPRESSLY AUTHORIZED BY G.S. 160A-209.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-456 as written into Article 19 of Chapter 160A of the General Statutes by Chapter 435 of the Session Laws of 1975 is hereby amended by inserting between the first and second words of subsection (e) the words "State or local" so that subsection (e), in its amended form, will begin with the words, "(e) No State or local taxes".

Sec. 2. G.S. 153A-376 as written into Article 18 of Chapter 153A of the General Statutes by Chapter 435 of the Session Laws of 1975 is hereby amended by inserting between the first and second words of subsection (e) the words "State or local" so that subsection (e), in its amended form, will begin with the words, "(e) No State or local taxes".

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of June, 1975.

S. B. 900 CHAPTER 690

AN ACT TO CLARIFY THE DISCIPLINARY AUTHORITY OF THE BOARD OF MEDICAL EXAMINERS AND TO OTHERWISE AMEND THE MEDICAL PRACTICE ACT.

The General Assembly of North Carolina enacts:

Section 1. Section 90-8 of the General Statutes is hereby amended to read as follows:

"*Officers may administer oaths, and subpoena witnesses and records.*—The president and secretary of the board may administer oaths to all persons appearing before it as the board may deem necessary to the performance of its duties, and to summon and to issue subpoenas for the appearance of any witnesses deemed necessary to testify concerning any matter to be heard before or inquired into by the board, and to order that records concerning the treatment of patients relevant to the board's inquiry be produced before the board or for inspection and copying by representatives of the board by the custodian of such records."

Sec. 2. Section 90-10 of the General Statutes is hereby amended as follows:

By inserting in line 3 of said section after the word "Examiners" and before the word ", provided" the words "or who has passed such other examination which the board deems to be equivalent to the examination given by the board,".

Sec. 3. Section 90-13 of the General Statutes is hereby amended by adding a new sentence to such section reading as follows:

"Such a license may be granted for such a period of time and upon such conditions as the board may deem advisable."

Sec. 4. Section 90-14 of the General Statutes is hereby amended to read as follows:

"*Revocation, suspension, annulment or denial of license.*—The board shall have the power to deny, annul, suspend, or revoke a license, or other authority to practice medicine in this State, issued by the board to any person who has been found by the board to have committed any of the following acts or conduct, or for any of the following reasons:

1. Immoral or dishonorable conduct;

2. Producing or attempting to produce an abortion contrary to law;

3. Made false statements or representations to the board, or who has willfully concealed from the board material information in connection with his application for a license;

4. Obtained or attempted to obtain practice in his profession by the making of false representations;

5. Being unable to practice medicine with reasonable skill and safety to patients by reason of illness, drunkenness, excessive use of alcohol, drugs, chemicals, or any other type of material or by reason of any physical or mental abnormality. The board is empowered and authorized to require a physician licensed by it to submit to a mental or physical examination by physicians designated by the board before or after charges may be presented against him, and the results of examination shall be admissible in evidence in a hearing before the board;

6. Unprofessional conduct, including, but not limited to, any departure from, or the failure to conform to, the minimal standards of acceptable and prevailing medical practice, or the ethics of the medical profession, irrespective of whether or not a patient is injured thereby, or the committing of any act contrary to honesty, justice, or good morals, whether the same is committed in the course of his practice or otherwise, and whether committed within or without North Carolina;

7. Conviction in any court of the commission of a crime involving moral turpitude, or of the violation of a law involving the practice of medicine or the conviction of a felony;

8. By false representations has obtained or attempted to obtain practice, money or anything of value;

9. Has advertised or publicly professed to treat human ailments under a system or school of treatment or practice other than that for which he has been educated;

10. Adjudication of mental incompetency, which shall automatically suspend a license unless the board orders otherwise;

11. Lack of professional competence to practice medicine with a reasonable degree of skill and safety for patients. In this connection the board may consider repeated acts of a physician indicating his failure to properly treat a patient and may require such physician to submit to inquiries or examinations, written or oral, by members of the board or by other physicians licensed to practice medicine in this State, as the board deems necessary to determine the professional qualifications of such licensee;

12. Promotion of the sale of drugs, devices, appliances or goods provided for a patient in such a manner as to exploit the patient for financial gain of the physician;

13. Suspension or revocation of a license to practice medicine in any other state, or territory of the United States, or other country.

For any of the foregoing reasons, the board may deny the issuance of a license to an applicant, revoke a license issued to it, may suspend such a license for a period of time, and may impose conditions upon the continued practice after such period of suspension as the board may deem advisable, may limit the accused physician's practice of medicine with respect to the extent, nature or location of his practice as the board deems advisable. The board may, in its discretion and upon such terms and conditions and for such period of time as it may prescribe, restore a license so revoked or rescinded."

Sec. 5. Section 90-14.2 of the General Statutes is hereby amended by deleting the first sentence of such section and inserting in lieu thereof the following:

"Before the board shall revoke, restrict or suspend any license granted by it, the licensee shall be given a written notice indicating the general nature of the charges, accusation, or complaint made against him, which notice may be prepared by a committee or one or more members of the board designated by the board, and stating that such licensee will be given an opportunity to be heard concerning such charges or complaint at a time and place stated in such notice, or at a time and place to be thereafter designated by the board, and the board shall hold a public hearing not less than 30 days from the date of the service of such notice upon such licensee, at which such licensee may appear personally and through counsel, may cross examine witnesses and present evidence in his own behalf."

Sec. 6. This act shall be in full force and effect upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1975.

S. B. 905 CHAPTER 691

AN ACT TO AMEND CHAPTER 496 OF THE 1955 SESSION LAWS, AS AMENDED, RELATING TO THE PENSION FUND FOR THE RETIREMENT AND DISABILITY OF MEMBERS OF THE POLICE DEPARTMENT OF THE CITY OF HIGH POINT.

The General Assembly of North Carolina enacts:

Section 1. Section 1(c) of Chapter 496 of the 1955 Session Laws, relating to the Pension Fund Plan for the retirement and disability of members of the Police Department of the City of High Point, is hereby amended by adding the following proviso:

"Provided, however, that any member of the police department who has been a member of the North Carolina Law Enforcement Officers' Benefit and Retirement Fund for 10 years may elect to remain in said fund in lieu of joining the High Point Policemen's Pension and Disability Fund. In such event the city treasurer shall deduct five percent (5%) from such member's monthly salary and pay it to the account of said member in the North Carolina Law Enforcement Officers' Benefit and Retirement Fund and the City of High Point shall contribute an amount equal to five percent (5%) of the member's salary in lieu of contributing to the High Point Policemen's Pension and Disability Fund."

Sec. 2. Section 1(e) of Chapter 496 of the 1955 Session Laws, relating to the Pension Fund Plan for the retirement and disability of members of the Police Department of the City of High Point, is hereby deleted.

Sec. 3. Section 2 of Chapter 496 of the 1955 Session Laws is hereby amended by striking out the word "Examiners" in the second, seventh and ninth lines and inserting in lieu thereof the word "Trustees".

Sec. 4. Section 3 of Chapter 496 of the 1955 Session Laws, as amended by Chapter 133 of the 1959 Session Laws, as amended by Chapter 761 of the 1971 Session Laws, as amended by Chapter 282 of the 1973 Session Laws, is hereby amended by adding the words "including both service retirement and disability retirement" after the words "upon his termination from service" as the same appear in line 5 of the first sentence of said section, and by deleting the words "except at the discretion of the Board of Examiners" as the same appear in lines 3 and 4 of the second sentence of said section.

Sec. 5. Section 4 of Chapter 496 of the 1955 Session Laws as amended by Chapter 761 of the 1971 Session Laws is hereby deleted.

Sec. 6. Section 6 of Chapter 496 of the 1955 Session Laws, as amended by Chapter 761 of the 1971 Session Laws, as amended and renumbered Section 5 by Chapter 282 of the 1973 Session Laws, is hereby amended to read as follows:

"(a) The board of trustees shall consist of five members: the Mayor of the City of High Point, the City Manager of the City of High Point, and three additional members to be appointed by the Council of the City of High Point. The three appointed members shall include a licensed physician, a full-time paid member of the Police Department of the City of High Point, and a citizen of the City of High Point. The three appointed members shall serve for a term of three years. Vacancies must be filled in the same manner as provided in the original selection.

(b) The medical board to be designated by the board of trustees shall be composed of not less than three nor more than five licensed physicians. The medical board shall arrange for and pass upon all medical examinations required under the provisions of Chapter 128, Section 27 of the General Statutes governing the North Carolina Local Governmental Employees' Retirement System, and shall investigate all essential statements and certificates by or on behalf of a member in connection with an application for disability retirement, and shall report in writing to the board of trustees its conclusions and recommendations upon all the matters referred to it.

(c) The City Attorney for the City of High Point shall be the legal advisor of the board of trustees."

Sec. 7. Section 7 of Chapter 496 of the 1955 Session Laws, as amended by Chapter 133 of the 1959 Session Laws, as amended and renumbered Section

6 by Chapter 282 of the 1973 Session Laws, is hereby amended to read as follows:

"The said board of trustees is vested with authority to determine all matters affecting the administration of this act, including the power and authority to determine the claims of policemen coming under the provisions of this act, and the decision of the members of the board shall be final and there shall be no appeal therefrom. The board may meet at any time upon the call of the chairman, or upon the call of any three members if the chairman neglects or refuses to call a meeting.

Two days' written notice of the time and purpose of a meeting to determine the claims of policemen shall be given, but the failure to give such notice shall not invalidate the proceedings at any such meeting, provided all members of the board are present. Two days' oral notice of the time of meeting shall be sufficient as to meetings held for any other purpose. The board shall select one of its members to be chairman and shall also designate someone, who need not be a member of the board, to act as secretary at its meetings, and it shall be his duty to give notice of all meetings. A majority of the members of the board of trustees shall constitute a quorum at any meeting except meetings to determine contested claims by policemen, in which event the three members not connected with the police department shall constitute a quorum. In any meeting a majority of those present shall decide any matter coming before a meeting, but any member of the board who is employed in the police department shall be disqualified from voting in the determination of his own claim for compensation. All claims for policemen for benefits under this act shall be made in writing and shall state the nature of the claim and the relief demanded. All claims shall be filed with the chairman of the board of trustees within 60 days from the arising date of the claim. Failure to so present a written claim within said 60 days, or acceptance of a refund of all money deducted from his salary which went into said pension fund, shall operate as a bar to the consideration and payment of said claim. Provided, that the time for presenting any claims which arose prior to the enactment of this section shall be extended to a date 60 days from said date."

Sec. 8. Section 9 of Chapter 496 of the 1955 Session Laws as amended and renumbered Section 8 of Chapter 282 of the 1973 Session Laws is hereby amended by striking out the word "Examiners" in lines 3, 5 and 9 and inserting in lieu thereof the word "Trustees".

Sec. 9. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 10. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1975.

S. B. 919 **CHAPTER 692**

AN ACT TO MODIFY THE STRUCTURE OF THE LEGISLATIVE RESEARCH COMMISSION TO FIT THE DIVIDED SESSION STRUCTURE OF THE GENERAL ASSEMBLY.

The General Assembly of North Carolina enacts:

Section 1. The text of present G.S. 120-30.10, as it appears in 1974 General Statutes Replacement Volume 3B, is designated subsection (a) and new subsections (b) and (c) are added to read as follows:

"(b) The cochairmen of the Legislative Research Commission may appoint additional members of the General Assembly to work with the regular members of the Research Commission on study committees. The terms of the additional study committee members shall be limited by the same provisions as apply to regular commission members, and they may be further limited by the appointing authorities.

(c) The cochairmen of the Legislative Research Commission may appoint persons who are not members of the General Assembly to advisory subcommittees. The terms of advisory subcommittee members shall be limited by the same provisions as apply to regular commission members, and they may be further limited by the appointing authorities."

Sec. 2. G.S. 120-30.11, as it appears in 1974 General Statutes Replacement Volume 3B, is amended by adding "held in the odd-numbered calendar years" at the end of the first sentence, by replacing the word "regular" with the word "biennial" near the end of the second sentence, and by adding "in the following odd-numbered calendar year" at the end of the second sentence.

Sec. 3. G.S. 120-30.18, as it appears in 1974 General Statutes Replacement Volume 3B, is amended by deleting all the language after the first sentence, and adding the following:

"Members of the General Assembly serving on the Legislative Research Commission or its study committees shall be reimbursed for travel and subsistence expenses at the rates set out in G.S. 120-3.1. Advisory subcommittee members shall be reimbursed and compensated at the rates set out in G.S. 138-5 (public members) and G.S. 138-6 (State officials or employees). All expenses of the commission shall be paid from funds appropriated for the commission."

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1975.

H. B. 250 **CHAPTER 693**

AN ACT TO AUTHORIZE COUNTIES TO REQUIRE REGISTRATION OF MOBILE HOMES.

The General Assembly of North Carolina enacts:

Section 1. Article 6 of Chapter 153A of the General Statutes of North Carolina is hereby amended by adding a new section thereto to be numbered and to read as follows:

"§ 153A-138. *Registration of mobile homes and house trailers.*—A county may by ordinance provide for the annual registration of mobile homes, house trailers and similar vehicular equipment designed for use as living or business

quarters and for the display of a sticker or other device thereon as evidence of such registration. No fee shall be charged for such registration."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1975.

H. B. 432 CHAPTER 694

AN ACT TO ESTABLISH THE COMMISSION OF ANATOMY AND TO REVISE PROCEDURE FOR DISPOSITION OF UNCLAIMED BODIES.

The General Assembly of North Carolina enacts:

Section 1. Article 14 of Chapter 90 of the General Statutes is hereby repealed.

Sec. 2. Article 3 of Chapter 143B of the General Statutes is hereby amended by adding a new Part 20 thereto to read as follows:

"Part 20. Commission of Anatomy.

"§ 143B-204. *Commission of Anatomy - creation; powers and duties.*—There is hereby created the Commission of Anatomy of the Department of Human Resources with the power and duty to adopt rules and regulations for the distribution of dead human bodies and parts thereof for the purpose of promoting the study of anatomy in the State of North Carolina. The Commission is authorized to receive dead bodies pursuant to G.S. 90-216.6 and to be a donee of a body or parts thereof pursuant to Article 15A of Chapter 90 of the General Statutes known as the Uniform Anatomical Gift Act and to distribute such bodies or parts thereof pursuant to the rules and regulations adopted by the Commission.

"§ 143B-205. *Commission of Anatomy - members; selection; term; chairman; quorum; meetings.*—The Commission of Anatomy shall consist of five members, one from the membership of the State Board of Mortuary Science, and one each from the University of North Carolina School of Medicine, East Carolina University School of Medicine, Duke University School of Medicine, and Bowman Gray School of Medicine. The dean of each school shall make recommendations and the Secretary of Human Resources shall appoint from such recommendations a member to the Commission. The President of the State Board of Mortuary Science shall appoint one member from that board to the Commission. The members shall serve terms of four years except two of the original members shall serve a term of one year, one shall serve a term of two years, one shall serve a term of three years, and one shall serve a term of four years. The Secretary shall determine the terms of the original members.

Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

The Secretary shall have the power to remove any member of the Commission from office for misfeasance, malfeasance or nonfeasance.

The Commission shall elect a chairman annually from its own membership.

A majority of the Commission shall constitute a quorum for the transaction of business.

The Commission shall meet at any time and place within the State at the call of the chairman or upon the written request of three members.

All clerical and other services required by the Commission shall be supplied by the Secretary of Human Resources.

"§ 143B-206. *Commission of Anatomy - reference to former Board of Anatomy in testamentary disposition.*—A testamentary disposition of a body or part thereof to the former Board of Anatomy shall be deemed in all respects to be a disposition to the Commission of Anatomy."

Sec. 3. Chapter 90 of the General Statutes is hereby amended by adding a new Article 14B thereto to read as follows:

"Article 14B.

Disposition of Unclaimed Bodies.

"§ 90-216.6. *Unclaimed bodies; disposition.*—(a) All officers, employees, and agents of the State of North Carolina or of any unit of local government in the State, all undertakers doing business within the State, or any person, institution or agency otherwise having charge or control of an unclaimed body shall immediately notify and, upon the request of the Commission of Anatomy, deliver the dead body to the Commission. The Commission may take and remove the dead body itself in its discretion. No reward or fee shall be paid for such notification of the Commission. The person, institution, or agency having charge or control of an unclaimed body shall make reasonable efforts to notify any interested person of the deceased's death. The recipient to which the Commission of Anatomy distributes the body shall pay all expenses for the embalming, delivery and distribution of the body, and for the reasonable efforts made to notify such persons.

(b) As used herein, an unclaimed body shall mean a dead body which is not claimed for burial upon death and which, as appears to the person, institution or agency having charge or control of the dead body, will not be claimed for burial within ten days of the deceased's death. The unclaimed body shall remain in the charge or control of the person, institution or agency for a period of ten days unless the period is extended by the medical examiner or coroner having jurisdiction, or unless the period is shortened by the County Director of Social Services upon his determination that the dead body will not be claimed for burial within ten days of the deceased's death. Upon the expiration of such period, the person, institution or agency having charge or control of the unclaimed body will deliver it to the Commission at such time and place specified by the Commission or permit the Commission to take and remove the body itself.

(c) All dead bodies not claimed for burial within ten days of the deceased's death may be received and distributed by the Commission of Anatomy pursuant to the authority contained in G.S. 143B-204 and this Article and in accordance with its rules and regulations. All interests in and rights to dead bodies unclaimed for burial within ten days of the deceased's death and received by the Commission of Anatomy shall vest in the Commission.

(d) No autopsy shall be performed on an unclaimed body without the written consent of the Commission of Anatomy except that such written consent is not required for an autopsy performed pursuant to Article 15 of Chapter 90 or Article 21 of Chapter 130 of the General Statutes.

(e) Due caution shall be taken to shield the unclaimed body from public view.

(f) Notwithstanding anything contained in this section, an unclaimed body shall not mean a dead body for which the deceased has made a gift thereof

pursuant to Article 15A of Chapter 90 of the General Statutes known as the Uniform Anatomical Gift Act.

(g) Any person failing or refusing to perform any duty imposed by this section or violating any of its provisions shall be guilty of a misdemeanor, punishable by a fine and/or imprisonment in the discretion of the court."

Sec. 4. G.S. 90-220.3 is amended in line 1 by adding following the word "persons" the words ", institutions and agencies".

Sec. 5. G.S. 90-220.3 is further amended by adding thereto a new subdivision (5) to read as follows:

"(5) The Commission of Anatomy for the distribution of such bodies or parts thereof for the purpose of promoting the study of anatomy in the State of North Carolina."

Sec. 6. G.S. 143B-142(2)(i) is hereby repealed.

Sec. 7. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1975.

H. B. 638 CHAPTER 695

AN ACT TO AUTHORIZE THE TOWN OF DALLAS TO CONSTRUCT AND EQUIP A FIRE STATION WITHOUT USING COMPETITIVE BIDDING PROCEDURES.

The General Assembly of North Carolina enacts:

Section 1. The Town of Dallas is hereby authorized to contract for supplies, materials, equipment and contractual services for the purpose of constructing and equipping a fire station in the town without having to comply with the competitive bidding procedures of the charter or the general laws of North Carolina.

Sec. 2. The authority conferred by this act shall be used only for the purpose of constructing and equipping the fire station, and this act shall be null and void after the date the fire station is completed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1975.

H. B. 707 CHAPTER 696

AN ACT TO AMEND CHAPTER 132 OF THE GENERAL STATUTES OF NORTH CAROLINA TO INCREASE THE PENALTIES FOR RETAINING ILLEGAL POSSESSION OF PUBLIC RECORDS AND TO ADD A SECTION TO CHAPTER 14 ESTABLISHING A PENALTY FOR THE LARCENY, MUTILATION, OR DEFACEMENT OF RECORDS AND PAPERS IN THE NORTH CAROLINA STATE ARCHIVES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 132-4 as the same appears in 1974 Replacement Volume 3B of the General Statutes is hereby amended by deleting all of the words following the word "conviction" in the last line of the paragraph and substituting therefor the words "imprisoned for a term not exceeding two years or fined not exceeding one thousand dollars ($1,000) or both."

Sec. 2. G.S. 132-5 as the same appears in 1974 Replacement Volume 3B of the General Statutes is hereby amended by deleting all of the words following the word "conviction" in the next to the last line of the paragraph and substituting therefor the words "imprisoned for a term not exceeding two years or fined not exceeding one thousand dollars ($1,000) or both."

Sec. 3. Chapter 14 as the same appears in 1969 Replacement Volume and 1974 Cumulative Supplement to Volume 1B of the General Statutes is amended by adding thereto G.S. 14-76.1 as follows:

"§ 14-76.1. *Mutilation or defacement of records and papers in the North Carolina State Archives.*—If any person shall wilfully or maliciously obliterate, injure, deface, or alter any record or paper in the custody of the North Carolina State Archives as defined by G.S. 121-2(7) and G.S. 121-2(8), he shall be guilty of a misdemeanor and upon conviction imprisoned for a term not exceeding two years or fined not exceeding one thousand dollars ($1,000) or both. The provisions of this paragraph do not apply to employees of the Department of Cultural Resources who may destroy any accessioned records or papers that are approved for destruction by the North Carolina Historical Commission pursuant to the authority contained in G.S. 121-4(12)."

Sec. 4. Chapter 14 as the same appears in 1969 Replacement Volume and 1974 Cumulative Supplement to Volume 1B of the General Statutes is amended by adding to G.S. 14-72(b) a new subsection as follows:

"(5) Of any record or paper in the custody of the North Carolina State Archives as defined by G.S. 121-2(7) and G.S. 121-2(8)."

Sec. 5. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 23rd day of June, 1975.

H. B. 756 CHAPTER 697

AN ACT TO AMEND G.S. 14-78 TO PROVIDE LARCENY OF UNGATHERED CROPS SHALL BE PUNISHABLE BY A FINE OF NOT LESS THAN TWO HUNDRED FIFTY DOLLARS ($250.00).

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-78, as the same appears in Volume 1B of the General Statutes, is amended on line 6 after the word "accordingly" by striking the period and by adding the words and figures "such punishment to include a fine of not less than fifty dollars ($50.00) nor more than two hundred fifty dollars ($250.00)".

Sec. 2. This act shall become effective 30 days after ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1975.

H. B. 823 **CHAPTER 698**

AN ACT TO DESIGNATE THE LINVILLE RIVER AS A SCENIC RIVER AREA.

The General Assembly of North Carolina enacts:

Section 1. Article 3, Chapter 113A of the General Statutes of North Carolina, is hereby amended by adding a new section to read as follows:

"§ 113A-35.2. That segment of the Linville River beginning at the State Highway 183 bridge over the Linville River and extending approximately 13 miles downstream to the boundary between the United States Forest Service lands and lands of Duke Power Company (latitude 35° 50' 20") shall be a scenic river area and shall be included in the North Carolina Natural and Scenic River System."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1975.

H. B. 872 **CHAPTER 699**

AN ACT TO REVISE THE DUTIES AND RESPONSIBILITIES OF THE STATE BOARD OF EDUCATION AND THE SUPERINTENDENT OF PUBLIC INSTRUCTION.

Whereas, the citizens of North Carolina have an interest in providing a uniform system of free public schools for the betterment of our children and for the enhancement of all of the inhabitants of the State; and

Whereas, Section 5 of Article IX of the Constitution of North Carolina provides that the State Board of Education shall supervise and administer the free public school system and shall make all needed rules and regulations in relation thereto subject to laws enacted by the General Assembly; and

Whereas, the Constitution of the State provides that the State Board of Education shall consist of the Lieutenant Governor, the treasurer, and 11 members appointed by the Governor, subject to confirmation by the General Assembly in joint session; and

Whereas, the Constitution further provides in Section 4 of Article IX for the Superintendent of Public Instruction to be the secretary and chief administrative officer of the State Board of Education; and

Whereas, it is in the public interest of North Carolina to define the relationship between the State Board of Education and the Superintendent of Public Instruction in keeping with the mandate of the Constitution of North Carolina, and in order to insure that the system of free public education is governed and administered in the best way, and that policies and responsibilities are clearly defined in our statutes; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 115-10(f) relating to committees of the State Board of Education is hereby rewritten to read as follows:

"(f) Committees. The board may create from its membership such committees as it deems necessary to facilitate its business. The chairman of the board shall with approval of the majority of the board appoint members to the several committees authorized by the board and to any additional committees which the chairman may deem to be appropriate."

"(h) Rules and regulations. The board shall adopt reasonable rules and regulations not inconsistent herewith, to govern their proceedings which the board may amend from time to time, which rules and regulations shall become effective when filed as provided by law; provided, however, a motion to suspend the rules so adopted shall require a consent of two thirds of the members. The rules and regulations shall include, but not be limited to, clearly defined procedures for electing the officers of the State Board referred to in G.S. 115-10, fixing the term of said officers, specifying how the voting shall be carried out, and establishing a date when the first election shall be held."

Sec. 2. G.S. 115-11(14) relating to the powers and duties of the State Board of Education is rewritten to read as follows:

"(14) Miscellaneous powers and duties. All the powers and duties exercised by the State Board of Education shall be in conformity with the Constitution and subject to such laws as may be enacted from time to time by the General Assembly. Among such duties are:

a. To certify and regulate the grade and salary of teachers and other school employees.

b. To adopt and supply textbooks.

c. To adopt a standard course of study upon recommendation of the State Superintendent of Public Instruction; provided, however, that in the event the State Superintendent does not recommend a standard course of study satisfactory to the board the board may cause an independent professional study to be made, with such assistance as it may deem necessary, to the end that a standard course of study appropriate to the needs of the children of the State shall be recommended to the board for adoption; whereupon the board shall require a public hearing to be held on the question of the adoption of the standard course of study thus proposed and it shall thereafter adopt the recommendations, with such changes as the board may deem appropriate, which shall be required as the minimal program of every public school in the State. The standard course of study thus established shall be reviewed by the board biennially.

d. To formulate rules and regulations for the enforcement of the compulsory attendance law.

e. To report to the General Assembly on the operation of the State Literary Fund.

f. To manage and operate a system of insurance for public school property.

g. In making substantial policy changes in administration, curriculum, or programs the board should conduct hearings throughout the regions of the State, whenever feasible, in order that the public may be heard regarding these matters."

Sec. 3. G.S. 115-14 (1) relating to administrative duties of the State Superintendent of Public Instruction is rewritten to read as follows:

"(1) To organize and establish, subject to the approval of the State Board of Education, a Department of Public Instruction which shall include such divisions and departments as are necessary for supervision and administration of the public school system. All appointments of administrative and supervisory personnel to the staff of the Department of Public Instruction shall be subject to the approval of the State Board of Education, which shall have authority to terminate such appointments for cause in conformity with the State Personnel Act."

Sec. 4. G.S. 115-17 (9) relating to the duties of the controller under the direction of the State Board of Education, is rewritten to read as follows:

"(9) He shall employ all necessary administrative and supervisory employees who work under his direction in the administration of the fiscal affairs of the board, subject to the approval of the State Board of Education, which shall have authority to terminate such appointments for cause in conformity with the State Personnel Act."

Sec. 5. G.S. 115A-3 is hereby amended by inserting immediately following the first paragraph thereof a new paragraph to read as follows:

"The Director of the Community College System shall appoint all necessary administrative and supervisory employees who work under his direction in the administration of the Community College System, subject to the approval of the State Board of Education, which shall have authority to terminate such appointments for cause in conformity with the State Personnel Act."

Sec. 6. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 23rd day of June, 1975.

H. B. 903 CHAPTER 700

AN ACT TO PROVIDE FOR THE STORAGE OF BEVERAGES.

The General Assembly of North Carolina enacts:

Section 1. A new G.S. 18A-35.1 is hereby added to Chapter 18A to read as follows:

"§ 18A-35.1. *Storage of beverages.*—Those beverages defined in G.S. 18A-2(5) and (14) may be possessed, consumed, and stored in those places listed in G.S. 18A-30(2) in the same manner and under the same terms and conditions as alcoholic beverages."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1975.

H. B. 926 CHAPTER 701

AN ACT TO AMEND CHAPTER 153A AND 160A OF THE GENERAL STATUTES TO PROTECT THE RIGHT OF PRIVACY OF COUNTY AND CITY EMPLOYEES.

The General Assembly of North Carolina enacts:

Section 1. A new section is added to G.S. Chapter 153A to read as follows:

"§ 153A-98. *Privacy of employee personnel records.*—(a) Notwithstanding the provisions of G.S. 132-6 or any other general law or local act concerning access to public records, personnel files maintained by a county are subject to inspection and may be disclosed only as provided by this section.

(b) The following information with respect to each county employee is a matter of public record: name; age; date of original employment or appointment to the county service; current position title; current salary; date and amount of the most recent increase or decrease in salary; date of the most recent promotion, demotion, transfer, suspension, separation or other change in position classification; and the office to which the employee is currently

assigned. The board of county commissioners shall determine in what form and by whom this information will be maintained. Any person may have access to this information for the purpose of inspection, examination, and copying, during regular business hours, subject only to such rules and regulations for the safekeeping of public records as the board of commissioners may have adopted. Any person denied access to this information may apply to the appropriate division of the General Court of Justice for an order compelling disclosure, and the court shall have jurisdiction to issue such orders.

(c) All information contained in a county employee's personnel file, other than the information made public by subsection (b) of this section, is confidential and shall be open to inspection only in the following instances:

(1) The employee or his duly authorized agent may examine all portions of his personnel file except (i) letters of reference solicited prior to employment, and (ii) information concerning a medical disability, mental or physical, that a prudent physician would not divulge to his patient.

(2) A licensed physician designated in writing by the employee may examine the employee's medical record.

(3) A county employee having supervisory authority over the employee may examine all material in the employee's personnel file.

(4) By order of a court of competent jurisdiction, any person may examine such portion of an employee's personnel file as may be ordered by the court.

(5) An official of an agency of the State or federal government, or any political subdivision of the State, may inspect any portion of a personnel file when such inspection is deemed by the official having custody of such records to be inspected to be necessary and essential to the pursuance of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in a criminal prosecution of the employee, or for the purpose of assisting in an investigation of the employee's tax liability.

(d) The board of commissioners of a county that maintains personnel files containing information other than the information mentioned in subsection (b) of this section shall establish procedures whereby an employee who objects to material in his file on grounds that it is inaccurate or misleading may seek to have the material removed from the file or may place in the file a statement relating to the material.

(e) Any public official or employee who knowingly and wilfully permits any person to have access to any confidential information contained in an employee personnel file, except as expressly authorized by this section, is guilty of a misdemeanor and upon conviction shall be fined in an amount not to exceed five hundred dollars ($500.00).

(f) Any person, not specifically authorized by this section to have access to a personnel file designated as confidential, who shall knowingly and wilfully examine in its official filing place, remove or copy any portion of a confidential personnel file shall be guilty of a misdemeanor and upon conviction shall be fined in the discretion of the court but not in excess of five hundred dollars ($500.00)."

Sec. 2. A new section is added to G.S. Chapter 160A to read as follows:

"§ 160A-168. *Privacy of employee personnel records.*—(a) Notwithstanding the provisions of G.S. 132-6 or any other general law or local act concerning access to public records, personnel files maintained by a city are subject to inspection and may be disclosed only as provided by this section.

(b) The following information with respect to each city employee is a matter of public record: name; age; date of original employment or appointment to the service; current position title; current salary; date and amount of the most recent increase or decrease in salary; date of the most recent promotion, demotion, transfer, suspension, separation, or other change in position classification; and the office to which the employee is currently assigned. The city council shall determine in what form and by whom this information will be maintained. Any person may have access to this information for the purpose of inspection, examination, and copying, during regular business hours, subject only to such rules and regulations for the safekeeping of public records as the city council may have adopted. Any person denied access to this information may apply to the appropriate division of the General Court of Justice for an order compelling disclosure, and the court shall have jurisdiction to issue such orders.

(c) All information contained in a city employee's personnel file, other than the information made public by subsection (b) of this section, is confidential and shall be open to inspection only in the following instances:

(1) The employee or his duly authorized agent may examine all portions of his personnel file except (i) letters of reference solicited prior to employment, and (ii) information concerning a medical disability, mental or physical, that a prudent physician would not divulge to his patient.

(2) A licensed physician designated in writing by the employee may examine the employee's medical record.

(3) A city employee having supervisory authority over the employee may examine all material in the employee's personnel file.

(4) By order of a court of competent jurisdiction, any person may examine such portion of an employee's personnel file as may be ordered by the court.

(5) An official of an agency of the State or federal government, or any political subdivision of the State, may inspect any portion of a personnel file when such inspection is deemed by the official having custody of such records to be inspected to be necessary and essential to the pursuance of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in a criminal prosecution (of the employee), or for the purpose of assisting in an investigation of (the employee's) tax liability.

(d) The city council of a city that maintains personnel files containing information other than the information mentioned in subsection (b) of this section shall establish procedures whereby an employee who objects to material in his file on grounds that it is inaccurate or misleading may seek to have the material removed from the file or may place in the file a statement relating to the material.

(e) Any public official or employee who knowingly and wilfully permits any person to have access to any confidential information contained in an employee personnel file, except as expressly authorized by this section, is guilty of a

misdemeanor and upon conviction shall be fined in an amount not to exceed five hundred dollars ($500.00).

(f) Any person, not specifically authorized by this section to have access to a personnel file designated as confidential, who shall knowingly and wilfully examine in its official filing place, remove or copy any portion of a confidential personnel file shall be guilty of a misdemeanor and upon conviction shall be fined in the discretion of the court but not in excess of five hundred dollars ($500.00)."

Sec. 3. This act shall become effective on January 1, 1976.

In the General Assembly read three times and ratified, this the 23rd day of June, 1975.

H. B. 940 CHAPTER 702

AN ACT TO AMEND CHAPTER 48 OF THE GENERAL STATUTES RELATING TO ADOPTIONS TO SUBSTITUTE THE WORDS "GUARDIAN AD LITEM" FOR "NEXT FRIEND" IN G.S. 48-9(a)(2), (3) and G.S. 48-9(d).

The General Assembly of North Carolina enacts:

Section 1. G.S. 48-9(a)(2), as the same appears in Volume 2A of the 1974 Cumulative Supplement to the General Statutes of North Carolina, is hereby amended by substituting the words "guardian ad litem" for the words "next friend" on line 5 thereof.

Sec. 2. G.S. 48-9(a)(3), as the same appears in Volume 2A of the 1974 Cumulative Supplement to the General Statutes of North Carolina, is hereby amended by substituting the words "guardian ad litem" for the words "next friend" on line 7 thereof.

Sec. 3. G.S. 48-9(d), as the same appears in the 1966 Replacement Volume 2A of the General Statutes of North Carolina, is hereby amended by substituting the words "guardian ad litem" for the words "the next friend" on line 5 thereof, the words "guardian ad litem" for the words "next friend" on line 7 thereof and the words "a guardian ad litem" for the words "any next friend" on line 9 thereof.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1975.

H. B. 954 CHAPTER 703

AN ACT RELATING TO PUNISHMENT FOR BURGLARY IN THE FIRST DEGREE AND FOR ARSON COMMITTED PRIOR TO THE EFFECTIVE DATE OF CHAPTER 1201 SESSION LAWS OF 1973.

The General Assembly of North Carolina enacts:

Section 1. The provisions of G.S. 14-52 and G.S. 14-58, as rewritten by Sections 3 and 4, respectively, of Chapter 1201 of the Session Laws of 1973, providing that punishment for first degree burglary and arson shall be imprisonment for life in the State's prison, shall apply to all crimes of first degree burglary and arson committed prior to April 8, 1974, the effective date of Chapter 1201, Session Laws of 1973, as well as to those thereafter committed.

Sec. 2. In all cases in which the defendant has been convicted of first degree burglary or arson committed prior to April 8, 1974, and a sentence of death has been pronounced, the defendant may apply to the judge who presided at the burglary or arson trial resulting in the sentence of death, or, if said judge is unavailable, to a resident superior court judge of the judicial district in which said burglary or arson trial was held for a modification of the sentence in accordance with the terms of this act. Upon appropriate findings of fact, the judge shall pronounce a sentence of imprisonment for life which shall be imposed in lieu of the death sentence. The defendant shall be allowed credit for time spent in custody awaiting execution of the sentence of death.

Sec. 3. An indigent person under sentence of death for first degree burglary or arson committed before April 8, 1974, shall be entitled to counsel in making one application under this act for each such sentence of death, if he is otherwise entitled under Article 36 of Chapter 7A of the General Statutes of North Carolina.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1975.

H. B. 985 **CHAPTER 704**

AN ACT TO PROVIDE AND MARK PULL-OFF AREAS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 136 of the General Statutes is hereby amended by adding a new section to read as follows:

"§ 136-18.4. *Provision and marking of 'pull-off' areas.*—The Board of Transportation is hereby authorized and directed (i) to provide as needed within its right-of-way, adjacent to long sections of two-lane primary highway having a steep uphill grade or numerous curves, areas on which buses, trucks and other slow moving vehicles can pull over so that faster moving traffic may proceed unimpeded and (ii) to erect appropriate and adequate signs along such sections of highway and at the pull-off areas. A driver of a truck, bus, or other slow moving vehicle who fails to use an area so provided and thereby impedes faster moving traffic following his vehicle shall be guilty of a misdemeanor and upon conviction shall be fined not more than fifty dollars ($50.00) or imprisoned not more than 30 days or both."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1975.

H. B. 990 **CHAPTER 705**

AN ACT TO AMEND CHAPTER 241, 1975 SESSION LAWS, TO CORRECT A CLERICAL ERROR IN HOUSE BILL 124, 1975 SESSION OF THE GENERAL ASSEMBLY, WHICH AMENDED G.S. 148-45.

The General Assembly of North Carolina enacts:

Section 1. Chapter 241 of the 1975 Session Laws is hereby amended to read as follows:

"Section 1. Subsection (g) of G.S. 148-45 is hereby amended to read as follows:

'§ 148-45(g)(1). Any person convicted and in the custody of the North Carolina Department of Correction and ordered or otherwise assigned to work under the work-release program, G.S. 148-33.1, or any convicted person in the custody of the North Carolina Department of Correction and on temporary parole by permission of the State Parole Commission or other authority of law or any youthful offender granted relief under G.S. 148-49.1 et seq., who shall fail to return to the custody of the North Carolina Department of Correction, shall be guilty of the crime of escape and subject to the applicable provisions of this section and shall be deemed an escapee. For the purpose of this subsection, escape is defined to include, but is not restricted to, willful failure to return to an appointed place and at an appointed time as ordered.

(2) If a person, who would otherwise be guilty of a first violation of G.S. 148-45(g)(1), voluntarily returns to his place of confinement within 24 hours of the time at which he was ordered to return, such person shall not be charged with an escape as provided in this section but shall be subject to such administrative action as may be deemed appropriate for an escapee by the Department of Correction; said escapee shall not be allowed to be placed on work release for a four-month period or for the balance of his term if less than four months; provided, however, that if such person commits a subsequent violation of this section then such person shall be charged with that offense and, if convicted, punished under the provisions of this section'."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1975.

H. B. 991 **CHAPTER 706**

AN ACT TO AMEND G.S. 69-25.2 SO AS TO CLARIFY THE PROCEDURE FOR CONDUCTING ELECTIONS IN RURAL FIRE DISTRICTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 69-25.2 is amended by rewriting in its entirety to read as follows:

"§ 69-25.2. *Duties of county board of commissioners regarding conduct of elections; cost of holding.*—The board of county commissioners, after consulting with the county board of elections, shall set a date for the election by resolution adopted. The county board of elections shall hold and conduct the election in the district. The county board of elections shall advertise and conduct said election, in accordance with the provisions of this Article and with the procedures prescribed in Chapter 163 governing the conduct of special and general elections. No new registration of voters shall be required, but the deadline by which

unregistered voters must register shall be contained in the legal advertisement to be published by the county board of elections. The cost of holding the election shall be paid by the county."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1975.

H. B. 996 CHAPTER 707

AN ACT TO PROVIDE FOR PREPAID LEGAL SERVICES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 84 of the General Statutes is amended by inserting therein a new section, to read as follows:

"§ 84-23.1. *Prepaid legal services.*—(a) This section is in addition to and not a limitation of the powers and responsibilities of the council set out in G.S. 84-23. To the extent that this section deals with the same powers and responsibilities it shall be taken to be in amplification of those powers and not in derogation thereof.

(b) The council has the responsibility and duty of discipline and regulation of the practice of law in this State. Plans providing for prepaid legal services must be submitted to the council and may not be implemented or operated without the prior and continuing approval by the council as being proper under the statutes, rules and regulations governing the practice of law in this State; provided, however, the council shall not approve any plan for prepaid legal services which in any way restricts the right of the client or person receiving prepaid legal services to select his own attorney from the actual members of the North Carolina State Bar, or a member of any other state bar in any other state where the claim or cause of action may arise.

(c) The council is authorized to initiate and cause the creation of a nonprofit corporation pursuant to Chapter 55A of the General Statutes, for the purpose of providing for prepayment for legal services. The corporation authorized by this section shall have the following powers:

(1) To provide for the collection of payments for the plan or plans it offers, the payment of legal fees in accordance with its approved plans, and the investment and safeguarding of funds held for such purposes.

(2) To contract with insurance companies or other companies for actuarial services, administrative and other services, use of facilities, underwriting and reinsurance.

(3) All other powers necessary and appropriate for the offering of plans for prepaid legal services.

(4) All other powers granted to nonprofit corporations by law or by virtue of their charters and bylaws.

The corporation may not directly employ an attorney to perform legal services for another person. It shall not be subject to regulation under Chapter 58 of the General Statutes or other provisions relating to insurance companies, but it shall be subject to regulation pursuant to subsection (b) of this section. Neither the existence of this authorization, nor the creation of such a corporation shall limit the authority of the council to approve other plans for prepaid legal services. The council may cause funds of The North Carolina State Bar to be contributed, advanced or loaned to, or used for the benefit of the

corporation so created upon such terms as the council deems appropriate, and pursuant to such regulations as the council may promulgate to assure such funds are used for the purposes herein provided.

(d) Notwithstanding approval of the council pursuant to subsection (b), any plan for prepaid legal services other than pursuant to subsection (c) is subject to regulation under Chapter 58 of the General Statutes if offered by a company engaged in the insurance business or if the plan itself constitutes the offering of insurance.

(e) Notwithstanding any other provision of this act or any other statute or law, no plan providing for prepaid legal services shall be authorized to exist or function in the State of North Carolina which in any way restricts or denies the client or person receiving prepaid legal services the right to select an attorney of his own choice from the active membership of the North Carolina State Bar, or a member of any other state bar in any other state where the claim or cause of action may arise to represent said person or client."

Sec. 2. Severability. If any provisions of this act or the application thereof to any person or circumstances are held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 3. General Repeal. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 4. Effective Date. This act becomes effective on the date of its ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1975.

H. B. 1005 CHAPTER 708

AN ACT TO AMEND ARTICLE 50 OF CHAPTER 106 OF THE NORTH CAROLINA GENERAL STATUTES RELATING TO THE PROMOTION OF USE AND SALE OF AGRICULTURAL PRODUCTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 106-564, as the same appears in the 1975 Replacement Volume 3A of the General Statutes, is amended by inserting after the word "annually" in line 4 "or at regular intervals during the year established by the rules and regulations of the duly certified commission, council, board or other agency".

Sec. 2. G.S. 106-564.1, as the same appears in the 1975 Replacement Volume 3A of the General Statutes, is amended by inserting after the word "deduction" in line 10 "or at regular intervals during the year following such deductions,".

Sec. 3. G.S. 106-567, as the same appears in the 1975 Replacement Volume 3A of the General Statutes, is amended by inserting after the word "collected" in line 11 "or due to be collected, whichever is earlier" and by striking the period after the word "producer" in line 11 and adding "under the rules and regulations of the duly certified commission, council, board or other agency."

Sec. 4. G.S. 106-567, as the same appears in the 1975 Replacement Volume 3A of the General Statutes is amended by deleting the word "annual" in line 5 and in line 8.

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1975.

H. B. 1035 CHAPTER 709

AN ACT TO FURTHER EFFECTUATE THE REORGANIZATION OF THE DEPARTMENT OF COMMERCE.

The General Assembly of North Carolina enacts:

Section 1. There is hereby re-created and reconstituted the following principal State department to be known as the Department of Commerce with the organization, powers and duties as defined in the "Executive Organization Act of 1971", except as hereinafter amended.

Sec. 2. G.S. 54-24.1 is hereby amended by deleting all of the second sentence thereof and inserting in lieu thereof the following sentence to read as follows:

"The members of the Savings and Loan Commission shall elect one of its members to serve as chairman of the Commission for such term as to be set forth in the bylaws of the Commission."

Sec. 3. G.S. 54-24.1 is further amended on line 10 by deleting the word "sixth" and inserting in lieu thereof the words "sixth and seventh".

Sec. 4. G.S. 143A-181 is hereby amended by deleting on line 3 the sentence beginning with the words "The Secretary of Commerce" and inserting in lieu thereof the following sentence to read as follows:

"The members of the Credit Union Commission shall elect one of its members to serve as chairman of the commission to serve for a term to be specified by the commission."

Sec. 5. G.S. 143A-181 is further amended by adding a new sentence on line 8 before the word "In" and after the word and punctuation "years." to read as follows:

"The Governor shall appoint the seventh member for the same term and in the same manner as the other six members are appointed."

Sec. 6. G.S. 143A-181 is further amended on line 16 by deleting the words "Secretary of Commerce" and inserting in lieu thereof the following: "Chairman of the Credit Union Commission".

Sec. 7. G.S. 117-1 is hereby rewritten as follows:

"§ 117-1. *Rural Electrification Authority created; appointments; terms of members.*—An agency to be known as the North Carolina Rural Electrification Authority is hereby created as an agency of the State of North Carolina, such agency to consist of five members to be appointed by the Governor of North Carolina. Current members of the North Carolina Rural Electrification Authority shall complete their respective terms of office. On or after June 5, 1975, the Governor shall appoint two members to replace those members whose terms expire on said date. All appointments made by the Governor shall be made for terms of four years."

Sec. 8. G.S. 117-5 is hereby rewritten to read as follows:

"§ 117-5. *Compensation and expenses.*—All members of the authority, except the secretary, shall receive as compensation for their services, per diem and actual expenses incurred while in the performance of their duties in accordance with the provisions of G.S. 138-5."

Sec. 9. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1975.

H. B. 1036 CHAPTER 710

AN ACT TO REMOVE CERTAIN LANDS IN WILLIAM B. UMSTEAD STATE PARK FROM THE STATE NATURE AND HISTORIC PRESERVE.

Whereas, all the lands now comprising William B. Umstead State Park are among those lands included in the State Nature and Historic Preserve by resolution of the 1973 Session of the North Carolina General Assembly; and

Whereas, Article XIV, Section 5 of the North Carolina Constitution provides that no lands may be removed from the State Nature and Historic Preserve without a law enacted by a vote of three-fifths of the members of each house of the North Carolina General Assembly; and

Whereas, the Department of Natural and Economic Resources finds that two parcels of land at William B. Umstead State Park, one containing 46.78 acres more or less and situated on the east side of Ebenezer Church Road approximately 1/2 mile north of the point where Ebenezer Church Road crosses Crabtree Creek and the other containing 88.4 acres more or less and lying approximately 1/2 mile south of the entrance to the Reedy Creek section of Umstead Park and between I-40 and Wake County Road 1650 (Reedy Creek Park Road), are no longer needed for satisfactory administration of the Park; and

Whereas, these said two tracts of land have been examined by competent members of the Division of Parks and Recreation of the Department of Natural and Economic Resources and have been found to contain no unique biological or geological resources worthy of special preservation; and

Whereas, with the approval of the Council of State, these said two tracts of land can be sold or traded to obtain other lands lying within or contiguous to the present boundary of the Park; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. That the two tracts of land above described are hereby removed from the State Nature and Historic Preserve.

Sec. 2. That it is the specific intent of the General Assembly that said removal shall be only for purposes of permitting the State of North Carolina to sell or exchange the land to obtain other lands for the protection and administration of William B. Umstead State Park.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1975.

H. B. 1045 CHAPTER 711

AN ACT TO MAKE A TECHNICAL AND CLARIFYING AMENDMENT TO THE ELECTION LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-41(a), as it appears in the 1974 Cumulative Supplement to Volume 3D of the General Statutes, is amended by rewriting the last sentence in the fourth paragraph to read as follows:

"If such recommendations are received by the county board of elections no later than the fifth day preceding the date on which appointments are to be made, it must make precinct appointments from the names of those recommended."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1975.

H. B. 1059 CHAPTER 712

AN ACT TO AMEND G.S. 130-152.2 TO VALIDATE EXTENSIONS OF THE BOUNDARIES OF SANITARY DISTRICTS THROUGH MAY 1, 1971.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-152.2, as it appears in the 1974 Cumulative Supplement to Volume 3B of the General Statutes, is hereby amended in line 1 by deleting the phrase "May 1, 1959" and inserting in lieu thereof "May 1, 1971".

Sec. 2. This act shall become effective upon ratification and shall not affect pending litigation.

In the General Assembly read three times and ratified, this the 23rd day of June, 1975.

H. B. 1066 CHAPTER 713

AN ACT TO ESTABLISH MINIMUM COMPENSATION FOR EXECUTIVE SECRETARIES TO COUNTY BOARDS OF ELECTIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-35(c) is amended by rewriting as follows:

"(c) Compensation. The executive secretary shall be paid compensation as recommended by the county board of elections and approved by the respective boards of county commissioners. Beginning July 1, 1975, the board of county commissioners in every county shall compensate the executive secretary of the county board of elections with a minimum payment of twenty dollars ($20.00) per day for each day the executive secretary is in attendance to her prescribed duties. For the purposes of this section not less than four hours nor more than eight hours shall constitute one day. In addition to the minimum compensation required herein, the executive secretary of the county board of elections shall be granted the same vacation leave, sick leave and petty leave as granted to all other county employees in similar positions. It shall also be the responsibility of the board of county commissioners to appropriate sufficient funds to compensate a replacement for the executive secretary when authorized leave is taken."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1975.

H. B. 1071 Chapter 714

AN ACT TO AMEND G.S. 48-6 RELATIVE TO THE CIRCUMSTANCES UNDER WHICH THE CONSENT OF A FATHER TO AN ADOPTION IS NOT NECESSARY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 48-6(a) is hereby amended to read as follows:

"(a) In case of a child born out of wedlock when the paternity of said child has not been judicially established or acknowledged by affidavit, or when said child has not been legitimated prior to the time of the signing of the consent, the written consent of the mother alone shall be sufficient under this Chapter and the father need not be made a party to the proceeding. The judicial establishment of paternity, the acknowledgement of paternity by affidavit, or the legitimation of the child by any means subsequent to the signing of such consent of the mother shall not make such consent invalid nor adversely affect the sufficiency of such consent nor make necessary the consent of the father or his joinder as a party to the proceeding. The judicial establishment of paternity or the acknowledgment of paternity by affidavit prior to the signing of the consent by the mother, if such consent was signed prior to January 1, 1976, shall not make necessary the consent of the father or his joinder as a party to the proceeding."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1975.

H. B. 1088 CHAPTER 715

AN ACT TO AMEND THE DEFINITION OF "IMPROVE" IN REGARD TO LIENS TO INCLUDE THE PROFESSIONAL SERVICES PERFORMED BY REGISTERED ARCHITECTS, ENGINEERS, LAND SURVEYORS AND LANDSCAPE ARCHITECTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 44A-7(1), as the same appears in the 1974 Cumulative Supplement to Volume 2A of the General Statutes, is hereby rewritten to read as follows:

"(1) 'Improve' means to build, effect, alter, repair, or demolish any improvement upon, connected with, or on or beneath the surface of any real property, or to excavate, clear, grade, fill or landscape any real property, or to construct driveways and private roadways, or to furnish materials, including trees and shrubbery, for any of such purposes, or to perform any labor upon such improvements, and shall also mean and include any design or other professional or skilled services furnished by architects, engineers, land surveyors and landscape architects registered under Chapter 83, 89 or 89A of the General Statutes."

Sec. 2. G.S. 44A-8, as it appears in the 1974 Cumulative Supplement to Volume 2A of the General Statutes, is hereby rewritten to read as follows:

"§ 44A-8. *Mechanics', laborers' and materialmen's lien; persons entitled to lien.*—Any person who performs or furnishes labor or professional design or surveying services or furnishes materials pursuant to a contract, either express or implied, with the owner of real property, for the making of an improvement thereon shall, upon complying with the provisions of this Article, have a lien on such real property to secure payment of all debts owing for labor done or professional design or surveying services or material furnished pursuant to such contract."

Sec. 3. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 23rd day of June, 1975.

H. B. 1194 **CHAPTER 716**

AN ACT TO COMPLETE THE REORGANIZATION OF THE DEPARTMENT OF TRANSPORTATION.

The General Assembly of North Carolina enacts:

Section 1. Chapter 143B of the General Statutes is hereby amended by adding a new Article to be numbered Article 8 and captioned "Department of Transportation" and to read as follows:

"PART 1.

"General Provisions.

"§ 143B-342. *Department of transportation - creation.*—There is hereby created and established a department to be known as the 'Department of Transportation' with the organization, powers, and duties defined in Article 1 of Chapter 143B, except as modified in this Article.

"§ 143B-343. *Duties of the department.*—It shall be the duty of the department to provide the necessary planning, construction, and maintenance of an integrated statewide transportation system for the economical and safe transportation of people and goods, as provided by existing law or future enactments of the law and appropriations made therefor. The department shall also provide the functions of maintaining an accurate register of transportation vehicles and enforcing the laws of this State relating to transportation safety.

"§ 143B-344. *Functions of the Department of Transportation.*—The functions of the Department of Transportation shall comprise all functions of the executive branch of the State as provided by law in relation to transportation, except those functions delegated to the Utilities Commission. The functions shall include, those functions assigned to (1) the Board of Transportation, (2) the Division of Motor Vehicles, (3) the Governor's Highway Safety Program, (4) North Carolina Traffic Safety Authority, (5) the Boards of Commissioners of Navigation and Pilotage as provided for by Chapter 76 of the General Statutes, (6) the State Ports Authority, (7) the Vehicle Equipment Safety Compact, and it shall include mass transportation functions necessary to comply with federal aid requirements, the aviation functions as provided by Article 1B of Chapter 113 and any other transportation function provided by law.

"§ 143B-345. *Head of the department.*—The Secretary of Transportation shall be the head of the department.

"§ 143B-346. *Organization of the department.* The Department of Transportation shall be organized initially to include the Board of

Transportation, the North Carolina State Ports Authority, the Boards of Commissioners for Navigation and Pilotage provided for by Chapter 76 of the General Statutes, the Secondary Roads Council, the Aeronautics Council, the Division of Highways, the Division of Motor Vehicles, the Division of Transportation Safety, the Division of Aeronautics, the North Carolina Traffic Safety Authority and such other divisions as may be established pursuant to law.

"PART 2.

"Board of Transportation - Secondary Roads Council.

"§ 143B-347. *Board of Transportation.*—(a) There is hereby created a Board of Transportation. The Board of Transportation shall formulate policies for the carrying out of highway functions assigned to the Department of Transportation and it shall supervise the carrying out of these functions and perform such other duties as required by law. Notwithstanding any provision of this Chapter to the contrary, the Board of Transportation shall have complete and exclusive authority in all highway matters assigned to the Department of Transportation. The Board of Transportation shall have the authority in organizing the sections, divisions, or other organizational structure of the Department of Transportation involved in the carrying out of highway functions and, subject to the State Personnel Act, shall have complete authority over hiring, promotions, and dismissals of personnel in the Department of Transportation paid from the Highway Fund. The Board of Transportation may, in its discretion, delegate the award of contracts, the promulgation of ordinances, and management functions to the secretary, who in turn may subdelegate these functions. The Board of Transportation may in its discretion assign and delegate personnel functions in a manner which in its opinion will achieve maximum efficiency in carrying out highway functions.

(b) The Board of Transportation shall consist of the following:

(1) The Chairman. The Secretary of Transportation shall be an ex officio member of the Board of Transportation and shall be the chairman of the Board of Transportation.

(2) The Board of Transportation shall have nine members appointed by the Governor. The initial Board members shall be appointed for a term to begin July 1, 1973, and shall serve until January 15, 1977, or until their successors are appointed and qualify. The succeeding terms of office shall be for a period of four years beginning January 15, 1977, and each four years thereafter. The Governor shall have the authority to remove for cause sufficient to himself, any member appointed by him, and the Governor shall make public the reason for such removal.

(3) The Board of Transportation shall have three members appointed from the membership of the General Assembly, in addition to those members appointed by the Governor. One member shall be appointed by the Lieutenant Governor, one shall be appointed by the Speaker of the House of Representatives, and one shall be appointed by the Joint Caucus Leader of the Minority Party. The term of the initial board members appointed from the membership of the General Assembly shall begin July 1, 1973, and they shall serve until January 15, 1975, or until a successor is duly appointed and qualifies. The succeeding terms shall be for two years beginning January 15, 1975, and each two years thereafter.

Vacancies in office shall be filled by the same official making the initial appointment to that office.

(4) The headquarters and main office of the Board of Transportation shall be located in Raleigh, and the Board shall meet once in each 60 days at such regular meeting time as the Board by rule may provide and at any place within the State as the Board may provide, and may hold special meetings at any time at the call of the chairman, or any three members of the Board. The Board shall have the power to adopt and enforce rules and regulations for the government of its meetings and proceedings, and for the transactions of all business of the Board. The Board shall keep minutes of its meetings, which shall at all times be open to public inspection. A majority of the Board shall constitute a quorum for the transaction of business. The members of the Board shall receive per diem and necessary travel and subsistence expense in accordance with G. S. 138-5.

(c) The Board of Transportation shall exercise all of its prescribed statutory powers independently of the direction, supervision, and control of the Secretary of Transportation, except as provided in this Article. The Board of Transportation and the Division of Highways shall be responsible for reporting to the Governor through the secretary. Except for reporting, the secretary shall have only such other duties and authority as it relates to the highway functions of the Department of Transportation, as is provided for by G. S. 143B-347. Any other provisions of Chapter 143B of the General Statutes notwithstanding, the State Highway Administrator shall be appointed as provided by G.S. 136-4. To the end that the independence of the Board of Transportation be preserved, Article 1 of Chapter 143B shall not be construed as amending or repealing any inconsistent provisions of Article 8 of this Chapter.

"§ 143B-348. *Succession of powers and duties of State Highway Commission.*—The Board of Transportation shall succeed to all rights, powers, and duties heretofore vested in the State Highway Commission.

"§ 143B-349. *Secondary Roads Council.*—There is hereby created a Secondary Roads Council. The Secondary Roads Council of the Department of Transportation shall consist of 14 members appointed by the Governor who shall serve at the pleasure of the Governor. No two council members appointed by the Governor while serving shall reside in any one of the 14 engineering divisions as now established by G.S. 136-14.1. The Governor shall designate a member of the council to serve as chairman at the pleasure of the Governor. Members of the council shall receive per diem and necessary travel and subsistence expense in accordance with the provisions of G.S. 138-5. A majority of the members of the council shall constitute a quorum for the transaction of business. The council shall meet at least once in each three months at such regular meeting times and places as the council may provide, or as the Board of Transportation may otherwise provide. Notwithstanding any other provisions of this act, the provisions of the Executive Organization Act of 1973 or any other statute, the Secondary Roads Council shall have the duty of adopting work programs for secondary roads in each county. The Secondardy Roads Council shall have the duties assigned it by this section and by the provisions of Chapter 136 of the General Statutes, independently of the head of the department. Each board of county commissioners shall be consulted in preparing the annual work programs and in case of any disagreement, the board of county commissioners

may petition the Board of Transportation for a review. The Board shall make a determination which shall be final.

In all other cases, work or action as adopted by the Secondary Roads Council shall proceed as planned, provided that any action taken by the Secondary Roads Council is subject to review by the Board of Transportation. Any action taken by the council may be overruled by a majority of the Board. The annual work programs and projects adopted shall be followed by the Department of Transportation.

"PART 3.

"North Carolina State Ports Authority Transfer.

"§ 143B-350. *State Ports Authority.*—The North Carolina State Ports Authority, as contained in Article 22 of Chapter 143 of the General Statutes in the laws of this State is hereby transferred to the Department of Transportation. The Authority shall report its activities through the Secretary to the Governor. Any other provisions of this Chapter to the contrary notwithstanding, the Executive Director of the North Carolina State Ports Authority shall be appointed by the Authority upon recommendation of the Secretary of Transportation, with the approval of the Governor. The Executive Director shall have the duty and the authority of operating and managing the ports in accordance with the directions and policies of the Authority.

Notwithstanding any provision of this Chapter or any other statute to the contrary, the North Carolina State Ports Authority shall exercise all its prescribed statutory powers independently of the direction, supervision, and control of the Secretary of Transportation. To the end that the independence of the North Carolina State Ports Authority be preserved, no provision of this Chapter shall be construed as amending or repealing the provisions of this section.

"PART 4.

"Navigation and Pilotage Commissions.

"§ 143B-351. *Navigation and Pilotage Commissions.*—The Board of Commissioners of Navigation and Pilotage for the Cape Fear River as provided for by G.S. 76-1, and the Board of Commissioners of Navigation and Pilotage for Old Topsail Inlet and Beaufort Bar as provided for by G.S. 76-59 are hereby transferred to the Department of Transportation. All powers, duties and authority of the Board of Commissioners of Navigation and Pilotage for the Cape Fear River and Bar and the Board of Commissioners of Navigation and Pilotage for Old Topsail Inlet and Beaufort Bar, as provided for in Chapter 76 of the General Statutes, shall continue to vest in the Boards, as now provided by statute, independently of the direction, supervision, and control of the Secretary of Transportation. The commissions shall report their activity to the Governor through the Secretary of Transportation. The appointment to the Boards shall continue to be made in the manner as provided by Chapter 76 of the General Statutes.

"PART 5.

"Division of Aeronautics - Aeronautics Council.

"§ 143B-352. *Division of Aeronautics.*—There is hereby created the Division of Aeronautics of the Department of Transportation. The Division of Aeronautics shall carry out the duties assigned to the Department of Transportation by Article 1B of Chapter 113 of the General Statutes.

"§ 143B-353. *Aeronautics Council; creation, powers, and duties.*—There is hereby created the Aeronautics Council of the Department of Transportation. The Aeronautics Council shall advise the secretary of the department in the issuance of loans and grants to the cities, counties, and public airport authorities of North Carolina for the purposes of planning, acquiring, constructing, or improving municipal, county, or public authority airport facilities and upon any matter relating to airports which the secretary may refer to it. The Secretary shall report the activities of the Council to the Governor.

"§ 143B-354. *Aeronautics Council; members, selection, quorum, compensation.*—The Aeronautics Council of the Department of Transportation shall consist of 11 members appointed by the Governor, who, in making such appointments, shall designate one person from each of the congressional districts of the State. At least four of the appointed members shall possess a broad knowledge of aviation and airport development.

Five of the initial members of the council shall be the five members of the Governor's Aviation Committee whose terms expire on June 30, 1977, who shall serve on the council until June 30, 1977. Thereafter, their successors shall be appointed for a term of office of four years. Six members of the council shall be appointed for a term of four years beginning July 1, 1975. Thereafter, after the expiration of their respective terms of office, the successors shall be appointed for terms of four years. Any appointment to fill a vacancy on the council created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the council from office in accordance with the provisions of G.S. 143B-16.

The Governor shall designate a member of the council to serve as chairman at his pleasure.

Members of the council shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the council shall constitute a quorum for the transaction of business.

All clerical and other services required by the council shall be supplied by the Secretary of Transportation.

"PART 6.

"Directors, North Carolina Railroad and Atlantic Railroad.

"§ 143B-355. *North Carolina Railroad and Atlantic and North Carolina Railroad.*—The Department of Transportation shall make a study of the status of the North Carolina Railroad Company and the Atlantic and North Carolina Railroad Company, and the State's interest in them including ownership of stock of the railroads by the State. The Department of Transportation shall report to the transportation committees of the House and Senate of the next General Assembly. The report shall include the State's investment in the railroads, the State's interest in the railroads, a history of the financial transactions between the State and the railroads involving loans or credit of the State, and how the State's interest as a shareholder is exercised. The report shall include recommendations for continued State ownership of the stock in the railroads, continuance of the present lease arrangements of the railroads and alternatives at the expiration of the leases, and it shall include recommendations for a method of exercising the State's interest as a shareholder in the railroads and monitoring the activities of the said railroads.

"PART 7.

"North Carolina Traffic Safety Authority.

"§ 143B-356. *North Carolina Traffic Safety Authority.*—The North Carolina Traffic Safety Authority as provided for by Article 44 of Chapter 143 is hereby transferred to the Department of Transportation. The Authority shall exercise the duties as provided in the statute without supervision or control of the Secretary of Transportation except as provided in the Article. The Authority shall report to the Governor through the Secretary of Transportation.

"PART 8.

"Highway Safety Program.

"§ 143B-357. The Department of Transportation is hereby empowered to contract in behalf of the State with the government of the United States to the extent allowed by the laws of North Carolina for the purpose of securing the benefits available to this State under the Federal Highway Safety Act of 1966. To that end, the Secretary of Transportation shall coordinate, with the Governor's approval, the activities of any and all departments and agencies of the State and its subdivisions relating thereto."

Sec. 2. State Ports Authority - conforming changes.

(a) G.S. 143-216 is rewritten to read as follows:

"§ 143-216. The North Carolina State Ports Authority is hereby created. It shall be governed by a Board of nine members. Members of the General Assembly shall be eligible for appointment to the membership on the Board. The General Assembly suggests and recommends that no person shall be appointed to the Board who is domiciled in the district of the North Carolina House of Representatives or the North Carolina Senate in which the ports at Wilmington and Morehead City are located.

The Governor shall appoint seven members to the Board, the Lieutenant Governor shall appoint one member and the Speaker of the House of Representatives shall appoint one member.

The initial appointments by the Governor shall be made on or after July 1, 1975, for terms as follows: One term for two years from July 1, 1975; three terms for four years from July 1, 1975, the appointees who shall be the three members of the present Board of the State Ports Authority whose terms expire June 30, 1979; and three terms for two years from July 1, 1975, two of which succeeding terms shall be for four years, the appointees who shall be the three members of the present Board of the State Ports Authority whose terms expire June 30, 1977. Thereafter, at the expiration of each stipulated term of office, all appointments made by the Governor shall be for a term of office of six years. The members of the Board appointed by the Governor shall be selected from the State at large and insofar as practicable, to represent each section of the State in all of the business, agriculture, and industrial interests of the State. Any vacancy occurring in the membership of the Board appointed by the Governor shall be filled by the Governor for the unexpired term. The Governor shall have the authority to remove for cause sufficient to himself, any member appointed by the Governor.

The Speaker of the House of Representatives shall appoint one member to the Board from the current membership of the North Carolina House of Representatives for a term of two years. The initial term of office of two years shall begin July 1, 1975, and an appointment shall be made by the Speaker of the House for a term of office each two years thereafter. Any vacancy on the

Board by reason of the resignation, or for any other reason, of the member appointed by the Speaker, shall be filled by the Speaker.

The Lieutenant Governor shall appoint one member to the Board from the current membership of the North Carolina Senate for a term of two years. The initial term of office of two years shall begin July 1, 1975, and an appointment shall be made by the Lieutenant Governor for a term of office each two years thereafter. Any vacancy on the Board by reason of the resignation, or for any other reason, of the Board member appointed by the Lieutenant Governor shall be filled by the Lieutenant Governor.

The Secretary of Transportation shall serve as an ex officio nonvoting member of the Board of the North Carolina State Ports Authority.

The Board shall elect one of its members as chairman, one as vice-chairman and the executive director shall serve as secretary to the Board. The Board shall appoint a Treasurer. The Board shall meet once in each 60 days at such regular meeting time as the Board by rule may provide and at any place within the State as the Board may provide, and shall also meet upon the call of its chairman or a majority of its members. A majority of its members shall constitute a quorum for the transaction of business. The members of the Board shall not be entitled to compensation for their services, but they shall receive per diem and necessary travel and subsistence expense in accordance with G.S. 138-5."

(b) G.S. 143-219(a) is amended by inserting between the word "authorized" and the word "at" on line 6 thereof the words and punctuation, ", with the approval of the Advisory Budget Commission,".

(c) Article 22 of Chapter 143 of the General Statutes is amended by adding the following language to G.S. 143-218(9):

"Provided however at no time may the total outstanding indebtedness of the Authority, excluding bond indebtedness, exceed a total of five hundred thousand dollars ($500,000) without approval of the Advisory Budget Commission."

Sec. 3. Division of Aeronautics - conforming changes.

(a) G.S. 113-28.5 is rewritten to read as follows:

"§ 113-28.5. (a) The Department of Transportation is hereby authorized, subject to the limitations and conditions of this Article, to provide State aid in form of loans and grants to cities, counties, and public airport authorities of North Carolina for the purpose of planning, acquiring, constructing, or improving municipal, county, and other publicly owned airport facilities, and to authorize related programs of aviation safety, education, promotion, and long-range planning.

(b) 'Airport' for the purposes of this Article is defined as any plot of land or water set aside and designated as a place where air craft may land and take off."

(b) G.S. 113-28.6 is rewritten to read as follows:

"§ 113-28.6. The Department of Transportation shall carry out the provisions of this Article. In exercising such power, the department shall:

1. Promote the further development and improvement of air routes, airport facilities, sea plane bases, heliports, protect their approaches and stimulate the development of aviation, commerce and air facilities. In exercising this power, the department shall prepare and develop goals, objectives, standards and policies for the most efficient and economical expenditure of State funds as may be appropriated for the purposes of this Article.

2. Publish and make available to aviation interests, the Federal Aviation Administration, and the people of the State generally, current information regarding such criteria, standards, and policies.

3. Prepare and keep current a State airport plan and submit annual revisions of that plan to the Federal Aviation Administration.

4. Make a detailed and thorough study of all applications for State assistance authorized herein and make specific recommendations regarding applications to the Federal Aviation Administration for federal grants.

5. Develop a plan of priorities and allocations of State funds to be revised annually.

6. Represent the State before all federal agencies and elsewhere where the aviation interests of the State may be affected.

7. Subject to the availability of funds for the purpose, conduct such promotional, educational and other programs as may be necessary to keep the people of the State properly informed with respect to aviation and to further aeronautics generally throughout the State.

In exercising the powers and performing the duties herein provided for by this section, the Department of Transportation shall consult with and seek the advice of the aeronautics council."

(c) Whenever the words "Department of Natural and Economic Resources" or the words "State Department of Natural and Economic Resources" are used in the provisions of G.S. 113-28.9 and G.S. 113-28.10, the same shall be deleted and the words "Department of Transportation" shall be inserted in lieu thereof.

(d) G.S. 113-28.11 is hereby amended to read as follows:

"§ 113-28.11. *Receipt of federal grants.*—(a) The Department of Transportation is hereby designated the State agency to accept grants for public airport development and improvements made by the United States pursuant to federal law. The Department shall have authority to comply with federal-aid provisions, to obtain and to disburse said grants in accordance with applicable federal laws and regulations, and to enter into contracts with the federal government, municipalities, counties, or airport authorities in connection with said grants.

(b) The Department of Transportation shall have authority to act as an agent of any public agency which, either individually or jointly with one or more other public agencies, submits to the Secretary of Transportation of the United States an application for federal aid in connection with airport development, improvement, or planning.

(c) The words 'Department of Transportation and Highway Safety' as appear in G.S. 113-28.8 are hereby amended to read 'Department of Transportation'."

(e) G.S. 113-28.12 is rewritten as follows:

"§ 113-28.12. The department is authorized to operate State-owned or leased airports or any airport for which the State has obtained a special use permit to operate. The Department may expend funds appropriated for grants to airports for the purpose of operating, maintaining, and improving State-owned or leased airports, or any airport for which the State has obtained a special use permit to operate and maintain."

Sec. 4. Navigation and Pilotage Commissions; conforming changes. (a) G.S. 76-59 is hereby amended by inserting immediately preceding the period at the end of the last sentence the words "including Beaufort Harbor".

(b) The provisions of G.S. 76-25 through G.S. 76-39 are hereby repealed.

Sec. 5. Department of Transportation; Division of Motor Vehicles. (a) The provisions of G.S. 20-1, G.S. 20-2 and G.S. 20-3 of Article 1 of Chapter 20 of the General Statutes are hereby rewritten to read as follows:

"ARTICLE 1.

"Division Of Motor Vehicles.

"§ 20-1. *Division of Motor Vehicles Department of Transportation; powers and duties.*—The Department of Motor Vehicles is hereby redesignated the Division of Motor Vehicles of the Department of Transportation. The Division of Motor Vehicles shall have the same powers and duties as were held by the Department of Motor Vehicles except as otherwise provided in this Article. All powers, duties and functions relating to the collection of motor fuel taxes and the collection of the gasoline and oil inspection taxes, shall continue to be vested in and exercised by the Secretary of Revenue, and wherever it is now provided by law that reports shall be filed with the Secretary of Revenue, or Department of Revenue, as a basis for collecting the motor fuel or gasoline and oil inspection taxes, or enforcing any of the laws regarding the motor fuel or gasoline and oil inspection taxes, such reports shall continue to be made to the Department of Revenue and the Commissioner of Motor Vehicles shall make available to the Secretary of Revenue all information from files of the Division of Motor Vehicles which the Secretary of Revenue may request to enable him to better enforce the law with respect to the collection of such taxes. Nothing in this Article shall deprive the Utilities Commission of any of the duties or powers now vested in it with regard to the regulation of motor vehicle carriers.

"§ 20-2. *Commissioner of Motor Vehicles.*—The Division of Motor Vehicles shall be administered by the Commissioner of Motor Vehicles who shall be appointed by and serve at the pleasure of the Secretary of the Department of Transportation. The Commissioner shall be paid an annual salary to be fixed by the Governor, with the approval of the Advisory Budget Commission and allowed his traveling expenses as allowed by law.

In any action proceeding, or matter of any kind, to which the Commissioner of Motor Vehicles is a party or in which he may have an interest, all pleadings, legal notices, proof of claim, warrants for collection, certificates of tax liability, executions, and other legal documents, may be signed and verified on behalf of the Commissioner of Motor Vehicles by the Assistant Commissioner of Motor Vehicles or by any director or assistant director of any section of the Division of Motor Vehicles or by any other agent or employee of the Division so authorized by the Commissioner of Motor Vehicles.

"§ 20-3. *Organization of Division.*—The Commissioner, subject to the approval of the Secretary of the Department of Transportation, shall organize and administer the Division in such manner as he may deem necessary to conduct the work of the Division."

(b) Division of Motor Vehicles conforming changes. Whenever the words "Department of Motor Vehicles" or "Department of Motor Vehicles of North Carolina" or "North Carolina Department of Motor Vehicles" or "Department" when referring to the Department of Motor Vehicles of North Carolina are used or appear in any statute or law of this State, the same shall be deleted and the words "Division of Motor Vehicles" or "Division of Motor Vehicles of North Carolina" or "North Carolina Division of Motor Vehicles" or "Division" as appropriate shall be inserted in lieu thereof unless otherwise provided herein.

(c) In addition to the foregoing, the following amendments to the General Statutes of North Carolina are hereby made:

(1) G.S. 20-183.16 shall be rewritten to read: "The Commissioner of this State on the Vehicle Equipment Safety Commission shall be the Secretary of Transportation or such other officer of the Department of Transportation as the Secretary may designate."

(2) G.S. 143B-2 is hereby amended by adding the following subsection: "7. Department of Transportation."

(3) G.S. 143B-6 is hereby amended by adding the following subsection: "7. Department of Transportation."

(4) G.S. 150A-1(a) as appears in the 1974 Supplement to Volume 3C of the General Statutes is amended by striking the words "Department of Motor Vehicles" as appears in the last sentence thereof, and inserting in lieu thereof the following: "Department of Transportation in rule making or administrative hearings as provided for by Chapter 20 of the North Carolina General Statutes."

(5) The words "Driver License Division of the Department of Motor Vehicles" shall be deleted and the words "Driver License Section of the Division of Motor Vehicles" shall be inserted in lieu thereof in paragraph 2, line 10 of G.S. 20-24(a), as well as wherever else the words appear.

(d) The following sections of the General Statutes of North Carolina are hereby repealed: G.S. 20-81.3(d), and G.S. 143A-97 through G.S. 143A-108."

Sec. 6. North Carolina Traffic Authority - conforming changes. G.S. 143-392 is hereby amended by striking the following words from lines 3 and 4: "The Governor, who shall be Chairman", and by adding a new sentence to G.S. 143-392 after the last sentence to read as follows: "The Chairman of the Authority shall be the Secretary of Transportation."

Sec. 7. Whenever the words "Department of Transportation and Highway Safety" appear in any statute, the same is hereby amended to read "Department of Transportation".

Sec. 8. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 23rd day of June, 1975.

H. B. 1199 CHAPTER 717

AN ACT TO PROVIDE ENABLING LEGISLATION FOR THE CREATION OF AN INTERIM BOARD OF EDUCATION FOR WAKE COUNTY AND SUBSEQUENT CONSOLIDATION OF THE RALEIGH CITY SCHOOL ADMINISTRATIVE UNIT AND THE WAKE COUNTY SCHOOL ADMINISTRATIVE UNIT AFTER APPROVAL OF A PLAN OF MERGER PURSUANT TO G.S. 115-74.1.

The General Assembly of North Carolina enacts:

Section 1. As used in this act certain terms are defined as follows:

(a) The term "City Board" shall mean the existing Raleigh City Board of Education.

(b) The term "County Board" shall mean the existing Wake County Board of Education.

(c) The term "Interim Board" shall mean a separate Board of Education established by this act for the purpose of supervising, coordinating, contracting

for and acquiring all new schools and plant sites to be built in the administrative unit affected by this act.

(d) The term "City Administrative Unit" shall mean the geographical territory over which the Raleigh City Board of Education exercises authority in administering and operating the public schools of said unit.

(e) The term "County Administrative Unit" shall mean the geographical territory over which the Wake County Board of Education exercises authority in administering and operating the public schools of said unit.

(f) The term "County Commissioners" shall mean the Board of County Commissioners of Wake County.

(g) The term "Wake County Board of Education" shall mean the single board hereinafter established by this act for the purpose of operating and administering all of the public schools of Wake County, including those schools now operated and administered by the city board and now operated and administered by the county board.

Sec. 2. The city board and the county board by majority vote of each may mutually agree on a Plan of Consolidation and Merger and shall petition for approval of the same by the county commissioners, all pursuant to the provisions of G.S. 115-74.1 of the General Statutes of North Carolina.

Sec. 3. Upon approval of the county commissioners as provided for in said Plan of Consolidation and Merger and as provided for herein and as provided for in G.S. 115-74.1 of the General Statutes of North Carolina, said Plan of Consolidation and Merger of the City Administrative Unit and the County Administrative Unit shall be effective as of July 1, 1976, and within 30 days after said approval of said Plan of Consolidation and Merger by the State Board of Education as provided in G.S. 115-74.1, the interim board as hereinafter provided for shall be established as a body politic and as such shall assume the authority and responsibility for the supervision, coordinating, acquisition, contracting and construction as to all new school buildings to be built within the territorial limits of the resulting Wake County Board of Education and the said interim board shall meet within 30 days after its establishment for the purpose of organizing. The interim board shall elect a chairman to preside over its meetings and all members of the interim board shall be equally entitled to hold any office of the board. The interim board shall exercise all powers and authorities and duties that are now exercised and performed by the city and county boards of education as set forth in the General Statutes as they relate to the selection and acquisition of school sites, entering into contracts for the purpose of obtaining equipment and supplies required for such building facilities.

All powers and authority not specifically given to the interim board under this act are specifically retained by the two existing boards of education.

For the purpose for which the interim board is hereby established, the interim board shall have all statutory powers and authority to prepare and submit to the county commissioners all necessary budgets including supplemental budgets and at the time required by law shall prepare and submit to the county commissioners all necessary capital outlay, debt service and current expense budget. The interim board shall expend all funds in conformity with approved budgets.

In addition, from and after the first day of January, 1976, the interim board shall have all necessary powers and authority to make contracts, hire

personnel and adopt policies and administrative procedures, all as the same may relate to all school matters for the school year 1976-77 and for subsequent years.

Sec. 4. In the event this Plan of Consolidation and Merger is approved as herein provided for, the interim board consisting of fifteen members shall be created in addition to the two existing boards and the said interim board shall remain in existence until such time as the Wake County Board of Education as herein established shall be fully constituted and the members of the interim board shall be elected or appointed as follows:

The interim board shall consist of the existing city board membership and the existing county board membership.

Such members of the interim board shall serve until July 1, 1976, the effective date of the consolidation and merger of the two administrative units herein provided for.

Any vacancy occurring on the interim board by reason of death, resignation, or for any cause whatsoever, shall be filled by the remaining members of the interim board.

As of July 1, 1976, the interim board shall be and become the Wake County Board of Education, at which time the Wake County Board of Education shall consist of fifteen members and the members thereof shall serve a term expiring on the first Monday in December, 1977.

Sec. 5. On or before January 1, 1977, the county commissioners shall establish nine voting districts numbered one through nine for the purpose of nominating and electing a school board member from each voting district. These districts shall be established by combining contiguous voting precincts in such a manner as to divide the county into nine school board voting districts having as nearly as may be possible an equal number of registered voters in each district. The office of Wake County Board of Elections shall provide administrative staff and assistance to the county commissioners in establishing the aforesaid school board voting districts.

Sec. 6. In the year 1977, the nine members of the Wake County Board of Education shall be elected as hereinafter provided:

(a) Seat 1 shall be filled by that person elected from District 1; Seat 2 shall be filled by that person elected from District 2; Seat 3 shall be filled by that person elected from District 3; Seat 4 shall be filled by that person elected from District 4; Seat 5 shall be filled by that person elected from District 5; Seat 6 shall be filled by that person elected from District 6; Seat 7 shall be filled by that person elected from District 7; Seat 8 shall be filled by that person elected from District 8; and Seat 9 shall be filled by that person elected from District 9.

(b) All terms of office for each member of the Wake County Board of Education nominated and elected in 1977 shall begin on the first Monday in December following the 1977 election and expire as follows:

The term of office for Seats 1, 2 and 3 shall expire on the first Monday in December of 1983.

The term of office for Seats 4, 5 and 6 shall expire on the first Monday in December of 1981.

The term of office for Seats 7, 8 and 9 shall expire on the first Monday in December of 1979.

Sec. 7. In the year 1977, and each two years thereafter, the election of members of the Wake County Board of Education shall be elected by the nonpartisan primary method of election as hereinafter provided:

(a) The election shall be held on Tuesday after the first Monday in November and the nonpartisan primary shall be held on the fourth Tuesday before the election.

(b) A candidate seeking nomination for election to the Wake County Board of Education shall file notice of candidacy with the Wake County Board of Elections not later than 12:00 noon on the Friday preceding the fourth Saturday and not earlier than 12:00 noon on the Friday preceding the eighth Saturday before the primary election in which he seeks to run.

(c) In the nonpartisan primary election to be held prior to the election, a nonpartisan primary shall be held to narrow the field of candidates to two candidates from each voting district. Candidates for the Wake County Board of Education shall file according to the voting district in which they reside and shall be voted on by the electors in that district. If only one or two candidates file for a single position, no primary shall be held for the position and the candidates shall be declared nominated.

(d) Candidates nominated by district shall be placed on the ballot in the election by district and shall be voted on by the electors of that district, and the candidate from each district receiving the highest total vote shall be elected to the Wake County Board of Education from that district.

(e) Except as is specifically provided in this section, nomination and election of members to the Wake County Board of Education shall be governed by the provisions applicable to the nomination and election of officers in municipal elections where the nonpartisan election and the nonpartisan primary method is used.

Sec. 8. Each two years after the 1977 election, the vacancies occurring in the membership of the Wake County Board of Education shall be filled by nomination and election as the said terms of the members expire, and all such members so elected shall hold office for terms of six years. The members of the Wake County Board of Education nominated and elected shall take office on the first Monday in December following their election, and the terms of their office shall date and extend from that time.

Sec. 9. The Wake County Board of Education, acting jointly and by a majority vote of all members present, shall elect a chairman to preside at meetings and a vice-chairman to preside at meetings in the absence of the chairman; and the chairman and vice-chairman shall have a vote on all matters considered by the Wake County Board of Education, but the presiding officer shall have no authority to vote except to break a tie. All vacancies occurring in the membership of the Wake County Board of Education by reason of death, resignation, removal of residence from the district from which elected, or for any cause whatsoever, shall be filled by the remaining members of said board by appointing a member from the voting district creating the vacancy for the unexpired term. The Wake County Board of Education shall have all power and authority as a Board of Education as herein conferred and as are conferred by the General Statutes of North Carolina on boards of education in general.

Sec. 10. The interim board of education shall cease as a body politic on July 1, 1976, when the Wake County Board of Education shall assume authority and its members shall take office as herein provided.

Sec. 11. Upon the creation of the interim board and until July 1, 1976, the city board and the county board shall continue to exercise all powers and authority with respect to the administration and operation of all existing

schools in the administrative unit of each respective board of education, together with all other powers conferred by law except those which are specifically given to the interim board for the purpose of supervising, coordinating, contracting for and acquiring all new school plants and sites to be built in Wake County.

The financial administration of the existing city board and the county board until otherwise terminated herein shall be governed by the provisions of the General Statutes of North Carolina except that the interim board shall have specific authority between January 1, 1976, and July 1, 1976, to prepare and submit to the county commissioners all necessary budgets, including supplemental budgets and at the time required by law to prepare and submit to the county commissioners all the necessary capital outlay, debt service and current expense budgets for school purposes, all for and in behalf of the Wake County Board of Education notwithstanding the creation of the Wake County Board of Education until July 1, 1976.

Sec. 12. When any vacancy occurs on the city board and the county board prior to July 1, 1976, such vacancy shall be filled in the manner now provided by law.

Sec. 13. As of July 1, 1976, when the Wake County Board of Education shall assume all of the authority of administering and operating all schools in the existing city administrative unit and county administrative unit, all authority and power of the interim board, the city board and the county board shall cease and terminate and the same shall be vested in the Wake County Board of Education which shall control, administer, and operate all of the public schools located in Wake County.

Sec. 14. Upon approval of the plan of consolidation and merger as herein provided for as of July 1, 1976, the title to all property of the city board and the county board and the interim board, both real and personal of every kind and description shall be vested in the Wake County Board of Education; and the city board and the county board and the interim board shall have full and ample authority between June 15, 1976, and July 1, 1976, to execute all deeds and other instruments of conveyance as may be deemed necessary to vest record title to any such property heretofore held by them in and to the Wake County Board of Education as of July 1, 1976. All claims and demands of every kind which the city board and the county board and the interim board may have as of such date, to wit, July 1, 1976, shall pass and be transferred to the Wake County Board of Education, and said board of education shall have the same powers and authority to enforce said claims and demands as the existing county board and the city board and the interim board would have had in the event of their continued existence. Any obligations and liabilities of the city board and county board and interim board existing as of July 1, 1976, shall be and become the obligations and liabilities of the Wake County Board of Education as of July 1, 1976, and such obligations and liabilities may be enforced against the said Wake County Board of education thereafter to the same extent that they might have been enforced against the existing boards had they continued in existence.

Sec. 15. Upon approval of a plan of consolidation and merger as herein provided for and upon the establishment of the interim board as herein provided for, then and in that event, all existing laws providing for the election and reelection of members to the city board and the county board shall be suspended, the same as if repealed, and the terms of office of members of the existing boards

of education shall continue until the termination of each respective board of education hereunder and the selection procedures for membership to the interim board and the resulting Wake County Board of Education to be established as of July 1, 1976, hereunder shall control.

Sec. 16. The purpose of this act is to provide an enabling statute in addition to the other statutes which may be available for such purposes for the consolidation and merger of the city board and the county board.

Sec. 17. All laws and clauses of laws in conflict with this act are repealed.

Sec. 18. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1975.

S. B. 75

CHAPTER 718

AN ACT TO REWRITE THE LAWS PERTAINING TO RADIATION PROTECTION PURSUANT TO THE RECOMMENDATIONS OF THE LEGISLATIVE RESEARCH COMMISSION STUDY ON RADIATION HAZARDS, AND TO AMEND THE RIOTS AND CIVIL DISORDER LAWS TO INCLUDE RADIOACTIVE MATERIALS WITHIN THEIR PURVIEW.

The General Assembly of North Carolina enacts:

Section 1. Chapter 104C as it appears in the 1973 Supplement to Volume 2D of the General Statutes of North Carolina is hereby rewritten to read as follows:

"§ 104C-1. *Title.*—This Chapter shall be known and may be cited as the 'North Carolina Radiation Protection Act.'

"§ 104C-2. *Scope.*—Except as otherwise specifically provided, this Chapter applies to all persons who receive, possess, use, transfer, own or acquire any source of radiation within the State of North Carolina; provided, however, that nothing in this Chapter shall apply to any person to the extent such person is subject to regulation by the United States Nuclear Regulatory Commission or its successors.

"§ 104C-3. *Declaration of policy.*—It is the policy of the State of North Carolina in furtherance of its responsibility to protect the public health and safety:

(a) To institute and maintain a program to permit development and utilization of sources of radiation for purposes consistent with the health and safety of the public; and

(b) To prevent any associated harmful effects of radiation upon the public through the institution and maintenance of a regulatory program for all sources of radiation, providing for: (1) a single, effective system of regulation within the State; (2) a system consonant insofar as possible with those of other states; and (3) compatibility with the standards and regulatory programs of the federal government for by-product, source and special nuclear materials.

"§ 104C-4. *Purpose.*—It is the purpose of this Chapter to effectuate the policies set forth in G.S. 104C-3 by providing for:

(a) A program of effective regulation of sources of radiation for the protection of the occupational and public health and safety;

(b) A program to promote an orderly regulatory pattern within the State, among the states and between the federal government and the State and

facilitate intergovernmental cooperation with respect to use and regulation of sources of radiation to the end that duplication of regulation may be minimized; and

(c) A program to establish procedures for assumption and performance of certain regulatory responsibilities with respect to sources of radiation.

"§ 104C-5. *Definitions.*—Unless a different meaning is required by the context, the following terms as used in this Chapter shall have the meanings hereinafter respectively ascribed to them:

(a) 'Agreement materials' means those materials licensed by the State under agreement with the United States Nuclear Regulatory Commission and which include by-product, source or special nuclear materials in a quantity not sufficient to form a critical mass, as defined by the Atomic Energy Act of 1954 as amended.

(b) 'Agreement state' means any state which has consummated an agreement with the United States Nuclear Regulatory Commission under the authority of Section 274 of the Atomic Energy Act of 1954 as amended, as authorized by compatible state legislation providing for acceptance by that state of licensing authority for agreement materials and the discontinuance of such licensing activities by the United States Nuclear Regulatory Commission.

(c) 'Atomic energy' means all forms of energy released in the course of nuclear fission or nuclear fusion or other atomic transformations.

(d) 'By-product material' means any radioactive material, except special nuclear material, yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material.

(e) 'Commission' means the Radiation Protection Commission.

(f) 'Department' means the State Department of Human Resources.

(g) 'Emergency' means any condition existing outside the bounds of nuclear operating sites owned or licensed by a federal agency, and further any condition existing within or outside of the jurisdictional confines of a facility licensed by the Department and arising from the presence of by-product material, source material, special nuclear materials, or other radioactive materials, which is endangering or could reasonably be expected to endanger the health and safety of the public, or to contaminate the environment.

(h) 'General license' means a license effective pursuant to regulations promulgated under the provisions of this Chapter without the filing of an application to transfer, acquire, own, possess, or use quantities of, or devices or equipment utilizing by-product, source, special nuclear materials, or other radioactive materials occurring naturally or produced artificially.

(i) 'Ionizing radiation' means gamma rays and x-rays, alpha and beta particles, high speed electrons, protons, neutrons, and other nuclear particles; but not sound or radio waves, or visible, infrared, or ultraviolet light.

(j) 'Non-ionizing radiation' means radiation in any portion of the electromagnetic spectrum not defined as ionizing radiation, including, but not limited to, such sources as laser, maser or microwave devices.

(k) 'Person' means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this State, any other state or political subdivision or agency thereof, and any legal successor, representative, agent, or agency of the foregoing, other than the United States Nuclear Regulatory Commission, or any successor thereto, and

other than federal government agencies licensed by the United States Nuclear Regulatory Commission, or any successor thereto.

(l) 'Radiation' means gamma rays and x-rays, alpha and beta particles, high speed electrons, protons, neutrons, and other nuclear particles, and electromagnetic radiation consisting of associated and interacting electric and magnetic waves including those with frequencies between three times ten to the eighth power cycles per second and three times ten to the twenty-fourth power cycles per second and wavelengths between one times ten to the minus fourteenth power centimeters and 100 centimeters.

(m) 'Radiation machine' means any device designed to produce or which produces radiation or nuclear particles when the associated control devices of the machine are operated.

(n) 'Radioactive material' means any solid, liquid, or gas which emits ionizing radiation spontaneously.

(o) 'Source material' means (1) uranium, thorium, or any other material which the Department declares to be source material after the United States Nuclear Regulatory Commission, or any successor thereto has determined the material to be such; or (2) ores containing one or more of the foregoing materials, in such concentration as the Department declares to be source material after the United States Nuclear Regulatory Commission, or any successor thereto, has determined the material in such concentration to be source material.

(p) 'Special nuclear material' means (1) plutonium, uranium 233, uranium 235, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the Department declares to be special nuclear material after the United States Nuclear Regulatory Commission, or any successor thereto, has determined the material to be such, but does not include source material; or (2) any material artificially enriched by any of the foregoing, but does not include source material.

(q) 'Specific license' means a license, issued after application, to use, manufacture, produce, transfer, receive, acquire, own or possess quantities of, or devices or equipment utilizing by-product, source, special nuclear materials, or other radioactive materials occurring naturally or produced artificially. Nothing in this Chapter shall require the licensing of individual natural persons involved in the use of radiation machines or radioactive materials for medical diagnosis or treatment.

"§ 104C-6. *Designation of State radiation protection agency.*—The Department is hereby designated the State agency to administer a statewide radiation protection program consistent with the provisions of this Chapter.

"§ 104C-7. *Radiation Protection Commission - creation and powers.*—There is hereby created the North Carolina Radiation Protection Commission of the Department of Human Resources with the power to promulgate rules and regulations to be followed in the administration of a radiation protection program. All rules and regulations for radiation protection that were adopted by the Commission for Health Services and are not inconsistent with the provisions of this Chapter shall remain in full force and effect unless and until repealed or superseded by action of the Radiation Protection Commission. The Radiation Protection Commission is authorized:

(a) To advise the Department in the development of comprehensive policies and programs for the evaluation, determination, and reduction of hazards associated with the use of radiation;

(b) To adopt, promulgate, amend and repeal such rules, regulations and standards relating to the manufacture, production, transportation, use, handling, servicing, installation, storage, sale, lease, or other disposition of radioactive material and radiation machines as may be necessary to carry out the policy, purpose and provisions of this Chapter. To this end, the Commission is authorized to require licensing or registration of all persons who manufacture, produce, transport, use, handle, service, install, store, sell, lease, or otherwise dispose of radioactive material and radiation machines, as the Commission deems necessary to provide an adequate protection and supervisory program: provided, that prior to adoption of any regulation or standard, or amendment or repeal thereof, the Commission shall afford interested parties the opportunity, at a public hearing, as provided in G.S. 104C-13, to submit data or views orally or in writing. The recommendations of nationally recognized bodies in the field of radiation protection shall be taken into consideration in such standards relative to permissible dosage of radiation;

(c) To require all sources of ionizing radiation to be shielded, transported, handled, used, stored, or disposed of in such a manner to provide compliance with the provisions of this Chapter and rules, regulations and standards adopted hereunder;

(d) To require, on prescribed forms furnished by the Department, registration, periodic re-registration, licensing, or periodic re-licensing of persons to use, manufacture, produce, transport, transfer, install, service, receive, acquire, own, or possess radiation machines and other sources of radiation;

(e) To exempt certain sources of radiation or kinds of uses or users from the licensing or registration requirements set forth in this Chapter when the Commission determines that the exemption of such sources of radiation or kinds of uses or users will not constitute a significant risk to the health and safety of the public;

(f) To promulgate rules and regulations pursuant to this Chapter which may provide for recognition of other state and federal licenses as the Commission shall deem desirable, subject to such registration requirements as it may prescribe; and exercise all incidental powers necessary to carry out the provisions of this Chapter;

(g) To provide by rule or regulation for an electronic product safety program to protect the public health and safety, which program may authorize regulation and inspection of sources of non-ionizing radiation throughout the State.

"§ 104C-8. *Radiation Protection Commission - members; selections; removal; compensation; quorum; services.*—The Commission shall consist of 10 voting public members and 10 non-voting ex officio members. The 10 voting public members of the Commission shall be appointed by the Governor as follows:

(1) One member who shall be actively involved in the field of environmental protection;

(2) One member who shall be an employee of one of the licensed public utilities involved in the generation of power by atomic energy;

(3) One member who shall have experience in the field of atomic energy other than power generation;

(4) One member who shall be a scientist or engineer from the faculty of one of the institutions of higher learning in the State;

(5) One member who shall have recognized knowledge in the field of radiation and its biological effects from the North Carolina Medical Society;

(6) One member who shall have recognized knowledge in the field of radiation and its biological effects from the North Carolina Dental Society;

(7) One member who shall have recognized knowledge in the field of radiation and its biological effects from the State at large.

(8) One member who shall have recognized knowledge in the field of radiation and its biological effects and who shall be a practicing hospital administrator from the North Carolina Hospital Association.

(9) One member who shall have recognized knowledge in the field of radiation and its biological effects from the North Carolina Chiropractic Association.

(10) One member who shall have recognized knowledge in the clinical application of radiation, shall be a practicing radiologic technologist from the North Carolina Society of Radiologic Technologists, and shall be certified by the American Registry of Radiologic Technologists.

(11) One member who shall have recognized knowledge in the clinical application of radiation and shall be a practicing podiatrist licensed by the North Carolina State Board of Podiatry Examiners.

Public members so appointed shall serve terms of office of four years. Four of the initial public members shall be appointed for two years, three members for three years, and three members for four years. Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death or disability of a public member shall be for the balance of the unexpired term. At the expiration of each public member's term, the Governor shall re-appoint or replace the member with a member of like qualifications. At its first meeting on or after July first of each year, the Commission shall designate by election one of its public members as chairman and one of its public members as vice-chairman to serve through June thirtieth of the following year.

The 10 ex officio members shall be appointed by the Governor, shall be members or employees of the following State agencies or their successors, and shall serve at the Governor's pleasure:

(1) the Utilities Commission;

(2) the Commission for Health Services;

(3) the Environmental Management Commission;

(4) the Board of Transportation;

(5) the Division of Civil Preparedness of the Department of Military and Veterans Affairs;

(6) the radiation protection program within the Department of Human Resources;

(7) the Department of Labor;

(8) the Industrial Commission;

(9) the Department of Insurance;

(10) the Medical Care Commission.

The Governor shall have the power to remove any member from the Commission for misfeasance, malfeasance, or nonfeasance in accordance with G.S. 143B-13.

The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the public members of the Commission shall constitute a quorum for the transaction of business.

All clerical and other services required by the Commission shall be supplied by the Secretary of the Department of Human Resources.

"§ 104C-9. *Department of Human Resources - powers and functions.*—The Department of Human Resources is authorized:

(a) To advise, consult and cooperate with other public agencies and with affected groups and industries;

(b) To encourage, participate in, or conduct studies, investigations, public hearings, training, research, and demonstrations relating to the control of sources of radiation, the measurement of radiation, the effect upon public health and safety of exposure to radiation and related problems;

(c) To require the submission of plans, specifications, and reports for new construction and material alterations on (1) the design and protective shielding of installations for radioactive material and radiation machines and (2) systems for the disposal of radioactive waste materials, for the determination of any radiation hazard and may render opinions, approve or disapprove such plans and specifications;

(d) To collect and disseminate information relating to the sources of radiation, including but not limited to: (1) maintenance of a record of all license applications, issuances, denials, amendments, transfers, renewals, modifications, suspensions, and revocations; and (2) maintenance of a record of registrants and licensees possessing sources of radiation requiring registration or licensure under the provisions of this Chapter, and regulations hereunder, and any administrative or judicial action pertaining thereto; and to develop and implement a responsible data management program for the purpose of collecting and analyzing statistical information necessary to protect the public health and safety. The Department may refuse to make public dissemination of information relating to the source of radiation within this State after the Department first determines that the disclosure of such information will contravene the stated policy and purposes of this Chapter and such disclosure would be against the health, welfare and safety of the public.

(e) To respond to any emergency which involves possible or actual release of radioactive material; and to perform or supervise decontamination and otherwise protect the public health and safety in any manner deemed necessary. This section does not in any way alter or change the provisions of Chapter 166 of the North Carolina General Statutes concerning response during an emergency by the Department of Military and Veterans Affairs or its successor.

(f) To develop and maintain a statewide environmental radiation program for monitoring the radioactivity levels in air, water, soil, vegetation, animal life, milk, and food as necessary to ensure protection of the public and the environment from radiation hazards.

"§ 104C-10. *Licensing of by-product, source, and special nuclear materials and other sources of ionizing radiation.*—(a) The Governor, on behalf of this State, is authorized to enter into agreements with the federal government providing for discontinuance of certain of the responsibilities of the federal government with respect to sources of ionizing radiation and the assumption thereof by this State.

(b) Upon the signing of an agreement with the Nuclear Regulatory Commission or its successor as provided in subsection (a) above, the Commission shall provide by rule or regulation for general or specific licensing of persons to use, manufacture, produce, transport, transfer, receive, acquire, own, or possess by-product, source, or special nuclear materials or devices, installations, or equipment utilizing such materials. Such rule or regulation shall provide for amendment, suspension, renewal or revocation of licenses. Each application for a specific license shall be in writing on forms prescribed by the Commission and furnished by the Department and shall state, and be accompanied by, such information or documents, including, but not limited to plans, specifications and reports for new construction or material alterations as the Commission may determine to be reasonable and necessary to decide the qualifications of the applicant to protect the public health and safety. The Commission may require all applications or statements to be made under oath or affirmation. Each license shall be in such form and contain such terms and conditions as the Commission may deem necessary. No license issued under the authority of this Chapter and no right to possess or utilize sources of radiation granted by any license shall be assigned or in any manner disposed of; and the terms and conditions of all licenses shall be subject to amendment, revision, or modification by rules, regulations, or orders issued in accordance with the provisions of this Chapter.

(c) Any person who, on the effective date of an agreement under subsection (a) above, possesses a license issued by the federal government shall be deemed to possess the same pursuant to a license issued under this Chapter, which shall expire either 90 days after receipt from the Department of a notice of expiration of such license, or on the date of expiration specified in the federal license, whichever is earlier.

"§ 104C-11. *Inspections, agreements, and educational programs.*—(a) Authorized representatives of the Department shall have the authority to enter upon any public or private property, other than a private dwelling, at all reasonable times for the purpose of determining compliance with the provisions of this Chapter and rules, regulations and standards adopted hereunder.

(b) After approval by the Commission, the Governor is authorized to enter into agreements with the federal government, other states, or interstate agencies, whereby this State will perform on a cooperative basis with the federal government, other states, or interstate agencies, inspections, emergency response to radiation accidents, and other functions related to the control of radiation.

(c) The Department is authorized to institute educational programs for the purpose of training or educating persons who may possess, use, handle, transport, or service radioactive materials or radiation machines.

"§ 104C-12. *Records.*—(a) The Commission is authorized to require each person who possesses or uses a source of radiation: (1) to maintain appropriate records relating to its receipt, storage, use, transfer, or disposal and maintain such other records as the Commission may require, subject to such exemptions as may be provided by the rules and regulations promulgated by the Commission; and (2) to maintain appropriate records showing the radiation exposure of all individuals for whom personnel monitoring may be required by the Commission, subject to such exemptions as may be provided by the rules and regulations promulgated by the Commission. Copies of all records required to be

kept by this subsection shall be submitted to the Department or its duly authorized agents upon request.

(b) The Commission is authorized to require that any person possessing or using a source of radiation furnish to each employee for whom personnel monitoring is required a copy of such employee's personal exposure record upon the request of such employee, at any time such employee has received radiation exposure in excess of limits established in the rules and regulations promulgated by the Commission, and upon termination of employment.

"§ 104C-13. *Administrative procedures and judicial review.*—(a) The Department may refuse to grant a license as provided in G.S. 104C-7 or G.S. 104C-10 to any applicant who does not possess the requirements or qualifications which the Commission may prescribe in rules and regulations. The Department may suspend, revoke, or amend any license in the event that the person to whom such license was granted violates any of the rules and regulations of the Commission, or ceases, or fails to have the reasonable facilities prescribed by the Commission: Provided, that before any order is entered denying an application for a license or suspending, revoking, or amending a license previously granted, the applicant or person to whom such license was granted shall be given notice and granted a hearing as provided in Chapter 150 of the North Carolina General Statutes.

(b) Whenever the Department in its opinion determines that an emergency exists requiring immediate action to protect the public health and safety the Department may, without notice or hearing, issue an order reciting the existence of such emergency and requiring that such action be taken as is necessary to meet the emergency. Notwithstanding any provision of this Chapter, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately, and on application to the Department shall be afforded a hearing within 10 days. On the basis of such hearing, the emergency order shall be continued, modified, or revoked within 30 days after such hearing, as the Department may deem appropriate under the evidence.

(c) Any applicant or person to whom a license was granted who shall be aggrieved by any order of the Department or its duly authorized agent denying such application or suspending, revoking, or amending such license may appeal directly to the superior court as provided in Chapter 150 of the North Carolina General Statutes.

"§ 104C-14. *Impounding of materials.*—(a) Authorized representatives of the Department shall have the authority in the event of an emergency to impound or order the impounding of sources of radiation in the possession of any person who is not equipped to observe or fails to observe the provisions of this Chapter or any rules or regulations promulgated by the Commission.

(b) The Department may release such sources of radiation to the owner thereof upon terms and conditions in accordance with the provisions of this Chapter and rules and regulations adopted hereunder or may bring an action in the appropriate superior court for an order condemning such sources of radiation and providing for the destruction or other disposition so as to protect the public health and safety.

"§ 104C-15. *Transportation of radioactive materials.*—(a) The Radiation Protection Commission is authorized to adopt, promulgate, amend, and repeal rules and regulations governing the transportation of radioactive materials in

North Carolina, which, in the judgment of the Commission, shall promote the public health, safety, or welfare and protect the environment.

(1) Such rules and regulations may include, but shall not be limited to, provisions for the use of signs designating radioactive material cargo; for the packing, marking, loading, and handling of radioactive materials, and the precautions necessary to determine whether the material when offered is in proper condition for transport, and may include designation of routes in this State which are to be used for the transportation of radioactive materials.

(2) Such rules and regulations shall not include the carrier vehicle or its equipment, the licensing of packages, nor shall they apply to the handling or transportation of radioactive material within the confines of a facility licensed by or owned by a federal agency.

(3) The Commission is authorized to adopt by reference, in whole or in part, such federal rules and regulations governing the transportation of radioactive material which are established by the United States Nuclear Regulatory Commission, the United States Department of Transportation, or the United States Postal Service (or any federal agency which is a successor to any of the foregoing agencies), as such federal rules may be amended from time to time.

(b) The Department is authorized to enter into agreements with the respective federal agencies designed to avoid duplication of effort and/or conflict in enforcement and inspection activities so that:

(1) Rules and regulations adopted by the Commission pursuant to this section of this Chapter may be enforced, within their respective jurisdictions, by any authorized representatives of the Department of Human Resources and the Department of Transportation and Highway Safety, according to mutual understandings between such departments of their respective responsibilities and authorities.

(2) The Department, through any authorized representative, is authorized to inspect any records of persons engaged in the transportation of radioactive materials during the hours of business operation when such records reasonably relate to the method or contents of packing, marking, loading, handling, or shipping of radioactive materials within the State.

(3) The Department, through any authorized representative, may enter upon and inspect the premises or vehicles of any person engaged in the transportation of radioactive materials during hours of business operation, with or without a warrant, for the purpose of determining compliance with the provisions of this Chapter and the rules and regulations promulgated by the Commission.

(c) Upon a determination by the Department that any provision of this section, or the rules and regulations promulgated by the Commission, are being violated or that any practice in the transportation of radioactive materials constitutes a clear and imminent danger to the public health, property, or safety, it shall issue an order requiring correction as provided in G.S. 104C-13(b).

"§ 104C-16. *Radiation protection fund.*—There is hereby established under the control and direction of the Department a Radiation Protection Fund which shall be used to defray the expenses of any project or activity for:

(a) emergency response to and decontamination of radiation accidents as provided in G.S. 104C-9(e), or

(b) perpetual maintenance and custody of radioactive materials as the Department may undertake.

In addition to any moneys that shall be appropriated or otherwise made available to it, the fund may be maintained by fees, charges, penalties or other moneys paid to or recovered by or on behalf of the Department under the provisions of this Chapter. Any moneys paid to or recovered by or on behalf of the Department as fees, charges, penalties or other payments authorized by this Chapter shall be paid to the Radiation Protection Fund in an amount equal to the sum expended for the projects or activities in subsections (a) and (b) above.

"§ 104C-17. *Payments to State and local agencies.*—Upon completion of any project or activity stated in G.S. 104C-16(a), and from time to time during any project or activity stated in G.S. 104C-16(b), each State and local agency that has participated by furnishing personnel, equipment or material shall deliver to the Department a record of the expenses incurred by the agency. The amount of incurred expenses shall be disbursed by the Secretary of Human Resources to each such agency from the Radiation Protection Fund. Upon completion of any project or activity stated in G.S. 104C-16(a), and from time to time during any project or activity stated in G.S. 104C-16(b), the Secretary of Human Resources shall prepare a statement of all expenses and costs of the project or activity expended by the State and shall make demand for payment upon the person having control over the radioactive materials or the release thereof which necessitated said project or activity. Any person having control over the radioactive materials or the release thereof and any other person causing or contributing to an incident necessitating any project or activity stated in G.S. 104C-16 shall be directly liable to the State for the necessary expenses incurred thereby and the State shall have a cause of action to recover from any or all such persons. If the person having control over the radioactive materials or the release thereof shall fail or refuse to pay the sum expended by the State, the Secretary of Human Resources shall refer the matter to the Attorney General of North Carolina, who shall institute an action in the name of the State in the Superior Court of Wake County, or in his discretion, in the superior court of the county in which the project or activity was undertaken by the State, to recover such cost and expenses.

In any action instituted by the Attorney General under this section, a verified and itemized statement of the expenses incurred by the State in any project or activity stated in G.S. 104C-16 shall be filed with the complaint and shall constitute prima facie the amount due the State; and any judgment for the State thereon shall be for such amount in the absence of allegation and proof on the part of the defendant or defendants that the statement of expenses incurred by and the amount due the State is not correct because of an error in:

(1) calculating the amount due, or

(2) not properly crediting the account with any cash payment or payments or other satisfaction which may have been made thereon.

"§ 104C-18. *Security for emergency response and perpetual maintenance costs.*—(a) No person shall use, manufacture, produce, transport, transfer, receive, acquire, own or possess radioactive material until that person shall have procured and filed with the Department such bond, insurance or other security as the Commission may by regulation require. Such bond, insurance or other security shall:

(1) run in favor of the Radiation Protection Fund in the amount of the

estimated total cost as established by the Commission that may be incurred by the State in any project or activity stated in G.S. 104C-16, and

(2) have as indemnitor on such bond or insurance an insurance company licensed to do business in the State of North Carolina.

(b) The Commission may from time to time:

(1) cause an audit to be made of any person that insures itself by means of other security as provided for in subsection (a) above;

(2) amend or modify the estimated total cost for security established pursuant to this section; and

(3) provide by regulation for the discontinuance of indemnification by one insurer and the assumption thereof by another insurer, as the Commission deems necessary to carry out the provisions of this Chapter and rules and regulations adopted and promulgated hereunder.

"§ 104C-19. *Fees.*—In order to meet the anticipated costs of administering the educational and training programs in G.S. 104C-11(c) and of enforcing and carrying out the inspection provisions in G.S. 104C-7(g) and G.S. 104C-11(a), the Department is authorized to charge and collect such reasonable fees as the Commission may by rule or regulation establish.

"§ 104C-20. *Prohibited uses.*—It shall be unlawful for any person to use, manufacture, produce, transport, transfer, receive, acquire, own or possess any source of radiation unless licensed, registered or exempted by the Department in accordance with the provisions of this Chapter and the rules and regulations adopted and promulgated hereunder.

"§ 104C-21. *Conflicting laws.*—Ordinances, resolutions or regulations, now or hereafter in effect, of the governing body of a municipality or county or board of health relating to by-product, source and special nuclear materials shall not be superseded by this Chapter: Provided, that such ordinances or regulations are and continue to be consistent and compatible with the provisions of this Chapter, as amended, and rules and regulations promulgated by the Commission.

"§ 104C-22. *Tort claims against persons rendering emergency assistance.*—Any and all tort claims against any person which arise while that person is rendering assistance during an emergency (1) at the request of any authorized representative of the State of North Carolina or (2) pursuant to a mutual radiological assistance agreement as provided for in G.S. 104C-11(b), shall constitute claims against this State; and the disposition thereof shall be governed by the provisions of Article 31 of Chapter 143 of the General Statutes. In any civil action brought against said person, the provisions of Article 31A of Chapter 143 of the General Statutes shall apply as if such person were an employee of this State.

"§ 104C-23. *Penalties.*—Any person who violates the provisions of G.S. 104C-15 or G.S. 104C-20, or who hinders, obstructs, or otherwise interferes with any authorized representative of the Department in the discharge of his official duties in making inspections as provided in G.S. 104C-11, or in impounding materials as provided in G.S. 104C-14, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided by law."

Sec. 2. G.S. 131-126.3, as it appears in the 1974 Replacement Volume 3B of the General Statutes of North Carolina, is amended by deleting the second sentence thereof.

Sec. 3. G.S. 97-2(1) and G.S. 97-13(b), as they appear in the 1972 Replacement Volume 2D of the General Statutes of North Carolina, are amended by deleting the word "ionizing" wherever it appears.

Sec. 4. G.S. 97-53(15), as it appears in the 1973 Supplement to Volume 2D of the General Statutes of North Carolina, is amended by deleting the word "ionizing" therefrom.

Sec. 5. G.S. 14-288.1(2), as it appears in the 1969 Replacement Volume 1B of the General Statutes of North Carolina, is amended by inserting a comma and the words "radioactive material or device, as defined in G.S. 14-288.8(c)(5)," between the words "incendiary device" and "or any instrument" in the second line thereof.

Sec. 6. G.S. 14-288.8(c), as it appears in the 1969 Replacement Volume 1B of the General Statutes of North Carolina, is amended by adding a new subsection (5) to read as follows:

"(5) Radioactive material, which means any solid, liquid or gas which emits or may emit ionizing radiation spontaneously or which becomes capable of producing radiation or nuclear particles when controls or triggering mechanisms of any associated device are operable."

Sec. 7. G.S. 14-288.8(c)(1), as it appears in the 1969 Replacement Volume 1B of the General Statutes, is amended by reinserting between the words "poisonous gas" and the colon (:), the words "or radioactive material," and by deleting the word "or" which immediately precedes the word "poison".

Sec. 8. Section 1 of this act shall become effective July 1, 1975, and shall expire June 30, 1981.

Sec. 9. Sections 2 through 7 of this act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1975.

S. B. 196 CHAPTER 719

AN ACT TO REGULATE THE SALE AND INSPECTION OF ANTIFREEZE SUBSTANCES AND PREPARATIONS.

The General Assembly of North Carolina enacts:

Section 1. This act shall be known as the "North Carolina Antifreeze Law of 1975".

Sec. 2. *Purpose.* It is desirable that there should be uniformity between the requirements of the several states. Therefore, the Board and Commission are directed, consistent with the purposes of this act, to so enforce this act as to strive for achievement of such uniformity and are also authorized and empowered to cooperate with and enter into agreements with any other agency of this State, or any other state regulating antifreeze, for the purpose of carrying out the provisions of this act and securing uniformity of regulations in conformity to the primary standards established by this act.

Sec. 3. *Definitions.* As used in this law, the following words and phrases have the following meanings:

(a) "Advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of antifreeze products.

(b) "Antifreeze" means any substance or preparation sold, distributed or intended for use as the cooling liquid, or to be added to the cooling liquid, in the cooling system of internal combustion engines of motor vehicles to prevent freezing of the cooling liquid or to lower its freezing point.

(c) "Antifreeze-coolant" or "antifreeze and summer coolant" or "summer coolant" means any substance as defined in (b) above which also is sold, distributed or intended for raising the boiling point of water or for the prevention of engine overheating whether or not used as a year-round cooling system fluid. Unless otherwise stated, the term "antifreeze" includes "antifreeze", "antifreeze-coolant", "antifreeze and summer coolant", and "summer coolant".

(d) "Board" means the North Carolina State Board of Agriculture, as defined by G.S. 106-2.

(e) "Commissioner" means the Commissioner of Agriculture of the State of North Carolina.

(f) "Distribute" means to hold with intent to sell, offer for sale, to sell, barter or otherwise supply to the consumer.

(g) "Home consumer-sized package" as used in Section 9(L) shall refer to packages of one fluid U. S. gallon or less.

(h) "Label" means any display of written, printed, or graphic matter on, or attached to, a package, or to the outside individual container or wrapper of the package.

(i) "Labeling" means (1) the labels and (2) any other written, printed or graphic matter accompanying a package.

(j) "Package" means (1) a sealed tamperproof retail package, drum, or other container designed for the sale of antifreeze directly to the consumer or (2)a container from which the antifreeze may be installed directly by the seller into the cooling system, but does not include shipping containers containing properly labeled inner containers.

(k) "Person", as used in this Article, shall be construed to mean both the singular and plural as the case demands, and shall include individuals, partnerships, corporations, companies and associations.

Sec. 4. *Registrations.* On or before the first day of July of each year, and before any antifreeze may be distributed for the permit year beginning July 1, the manufacturer, packager, or person whose name appears on the label shall make application to the Commissioner on forms provided by the latter for registration for each brand of antifreeze which he desires to distribute. The application shall be accompanied by specimens or facsimiles of labeling for all container sizes to be distributed, when requested by the Commissioner; a license and inspection fee of two hundred fifty dollars ($250.00) for each brand of antifreeze, and a properly labeled sample of the antifreeze shall also be submitted at this time. The Commissioner may inspect, test, or analyze the antifreeze and review the labeling. If the antifreeze is not adulterated or misbranded, if it meets the standards established and promulgated by the Board, and if the said antifreeze is not such a type or kind that is in violation of this act, the Commissioner shall thereafter issue a written license or permit authorizing

the sale of such antifreeze in this State for the fiscal year in which the license or inspection fee is paid. If the antifreeze is adulterated or misbranded, if it fails to meet standards promulgated by the Board, or is in violation of this act or regulations thereunder, the Commissioner shall refuse to register the antifreeze, and he shall return the application to the applicant, stating how the antifreeze or labeling is not in conformity. If the Commissioner shall, at a later date, find that a properly-registered antifreeze product has been materially altered or adulterated, or a change has been made in the name, brand or trademark under which the antifreeze is sold, or that it violates the provisions of this Article, or that it violates regulations, definitions or standards duly promulgated by the Board, he shall notify the applicant that the license authorizing sale of the antifreeze is cancelled. No antifreeze license shall be cancelled unless the registrant shall have been given an opportunity to be heard before the Commissioner or his duly designated agent and to modify his application in order to comply with the requirements of this law and regulations, definitions, and standards promulgated by the Board. All fees received by the Commissioner shall be placed in the Department of Agriculture Fund for the purpose of supporting the antifreeze enforcement and testing program.

Sec. 5. *Adulteration.* Antifreeze shall be deemed to be adulterated:

(a) If, in the form in which it is sold and directed to be used, it would be injurious to the cooling system in which it is installed, or if, when used in such cooling system, it would make the operation of the engine dangerous to the user.

(b) If its strength, quality, or purity falls below the standard of strength, quality, or purity established by the Board for the particular type or composition of antifreeze product.

Sec. 6. *Misbranding.* Antifreeze shall be deemed to be misbranded:

(a) If it does not bear a label which, (1) specifies the identity of the product, (2) states the name and place of business of the registrant, (3) states the correct net quantity of contents (in terms of liquid measure) separately and accurately in a uniform location upon the principal display panel, and (4) contains a statement warning of any hazard of substantial injury to human beings which may result from the intended use or reasonably foreseeable misuse of the antifreeze, as provided by applicable federal and State product safety laws.

(b) If the label on a container of less than five (5) gallons, or the labeling for a container of five (5) gallons or more, does not contain a statement or chart showing the appropriate amount, percentage, proportion or concentration of the antifreeze to be used to provide (1) claimed protection from freezing at a specified degree or degrees of temperature, (2) claimed protection from corrosion, or (3) claimed increase of boiling point or protection from overheating.

(c) If its labeling contains any claim that it has been approved or recommended by the Commissioner or the State of North Carolina.

(d) If its labeling is false, deceptive, or misleading.

Sec. 7. *Rules and regulations.* (a) The Board is authorized to promulgate such reasonable rules, regulations and standards for antifreezes as are specifically authorized in this law and such other reasonable rules and regulations as may be necessary for the efficient enforcement of this law and the protection of the public. The Board is authorized to promulgate regulations banning the distribution in North Carolina of any type of product not suitable for antifreeze usage in modern internal combustion engines or motor vehicles,

whether by reason of potential damage to the cooling system, improper heat transfer from the engine, absence of a convenient and suitable test method for measuring freeze protection, or other reason bearing upon the ultimate effect of the product when used in such automotive cooling systems. Before the issuance, amendment, or repeal of any rule, regulation or standard authorized by this law, the Board shall publish the proposed regulation, amendment, or notice to repeal an existing regulation in a manner reasonably calculated to give interested parties, including all current registrants, adequate notice and shall afford all interested persons an opportunity to present their views thereon, orally or in writing, within a reasonable period of time. After consideration of all views presented by interested persons, the Board shall take appropriate action as dictated by the material weight of objective information presented to the Board.

(b) The Commissioner shall administer this act by inspections, chemical analyses and other appropriate methods. The Commissioner shall also execute all orders, rules and regulations established by the Board. All authority vested in the Commissioner by virtue of the provisions of this Article may, with like force and effect, be executed by such agents of the Commissioner as he shall designate for such purpose; provided, however, that confidential formula information referred to in Section 11 must be confined to the files of the administrative chemist specifically designated by the Commissioner to handle such information.

Sec. 8. *Inspection, sampling and analysis.* The Commissioner, or his authorized agent, shall have free access at reasonable hours to all places and property in this State where antifreeze is manufactured, stored, transported, or distributed, or offered, or intended to be offered for sale, including the right to inspect and examine all antifreeze there found, and to take reasonable samples of such antifreeze for analysis together with specimens of labeling. All samples so taken shall be properly sealed and sent to the Department of Agriculture laboratories for examination together with all labeling appertaining thereto. It shall be the duty of the Commissioner to examine promptly all samples received in connection with the administration and enforcement of this law and to report the results of such examination to the owner and registrant of the antifreeze.

Sec. 9. *Prohibited acts.* It shall be unlawful to:

(a) Distribute any antifreeze which is adulterated or misbranded.

(b) Distribute any antifreeze which has been banned by the Board.

(c) Distribute any antifreeze which has not been registered in accordance with Section 4 or whose labeling is different from that accepted for registration; provided, that any antifreeze declared to be discontinued by the registrant must be registered by the registrant for one full year after distribution is discontinued; provided further, that any antifreeze in channels of distribution after the aforesaid registration period may be confiscated and disposed of by the Commissioner, unless the antifreeze is acceptable for registration and is continued to be registered by the manufacturer or the person offering the antifreeze for wholesale or retail sale.

(d) Refuse to permit entry or inspection or to permit the acquisition of a sample of antifreeze as authorized by Section 8.

(e) Dispose of any antifreeze that is under "stop sale" or "withdrawal from distribution" order in accordance with Section 10.

(f) Distribute any antifreeze unless it is in the registrant's or manufacturer's unbroken package or is installed by the seller into the cooling

system of the purchaser's vehicle directly from the registrant's or manufacturer's package, and the lable on such package if less than five (5) gallons, or the labeling of such package if five (5) gallons or more, does not bear the information required by Section 6(a), (b), (c), and (d).

(g) Use the term "ethylene glycol" in connection with the name of a product which contains other glycols unless it is qualified by the word "base", "type", or similar word, and unless the product meets the following requirements: (1) It consists essentially of ethylene glycol; (2) If it contains suitable glycols other than ethylene glycol that no more than a maximum of fifteen percent (15%) of such other glycols be present; (3) It contains a minimum total glycol content of ninety-three percent (93%) by weight; (4) The specific gravity is corrected to give reliable freezing point readings on a commercial ethylene glycol type hydrometer; and (5) The freezing point of a fifty percent (50%) by volume aqueous mixture of the antifreeze shall not be above -34° F.

(h) Refuse, when requested, to permit a purchaser to see the container from which antifreeze is drawn for installation into the purchaser's vehicle.

(i) Refill any container bearing a registered label, unless by the registrant or his duly-designated jobber, under regulations established by the Board.

(j) Distribute any antifreeze for which a practical, rapid means for measuring the freeze protection by the user is not readily available, whether by hydrometer or other means.

(k) Distribute antifreeze which is in violation of the Federal Poison Prevention Packaging Act and regulations and related federal and State product safety laws and regulations.

(l) Distribute antifreeze in home consumer-sized packages which are constructed of either transparent or translucent packaging materials.

(m) Disseminate any false or misleading advertisement relating to an antifreeze product.

Sec. 10. *Enforcement.* (a) When the Commissioner finds any antifreeze being distributed in violation of any of the provisions of this law or of any of the rules and regulations duly promulgated and adopted under this law by the Board, he may issue and enforce a written or printed "stop sale" or "withdrawal from distribution" order, warning the distributor not to dispose of any of the lot of antifreeze in any manner until written permission is given by the Commissioner or the court. Copies of such orders shall also be sent by certified mail to the registrant and to the person whose name and address appears on the labeling of the antifreeze. The Commissioner shall release for distribution the lot of antifreeze so withdrawn when said provisions of this law and applicable rules and regulations have been complied with. If compliance is not obtained within thirty (30) days of the date of notification to the registrant and the person whose name and address appears on the label, the Commissioner may begin proceedings for condemnation.

(b) Notwithstanding the provisions of subsection (a) of this section, any lot of antifreeze not in compliance with said provisions and regulations shall be subject to seizure upon complaint of the Commissioner to the district court in the county in which said antifreeze is located. In the event the court finds said antifreeze to be in violation of this law and its duly adopted regulations, it may then order the condemnation of said antifreeze and the same shall be disposed of in any manner consistent with the rules and regulations of the Board and the

laws of the State at the expense of the claimants thereof, under the supervision of the Commissioner; and all court costs and fees, and storage and other proper expenses, shall be taxed against the claimant of such article or his agent; provided, however, that in no instance shall the disposition of said antifreeze be ordered by the court without first giving thirty days' notice, by certified mail at his last known address, to the owner of same, if he is known to the Commissioner, and to the registrant, if the antifreeze is registered, at the address shown on the label or on the registration certificate, so that such persons may apply to the court for the release of said antifreeze or for permission to process or relabel said antifreeze so as to bring it into compliance with this law. When the violation can be corrected by proper labeling, processing of the product, or other action, the court, after all costs, fees and expenses incurred by the Commissioner have been paid and a good and sufficient bond, conditioned that such article shall be so corrected, has been executed, may by order direct that such article be delivered to the claimant thereof for such action as necessary to bring it into compliance with this law and regulations under the supervision of the Commissioner. The expense of such supervision shall be paid by the claimant. Such bond shall be returned to the claimant of the article on representation to the court by the Commissioner that the antifreeze is no longer in violation of this Article, and that the expenses of such supervision have been paid.

(c) A copy of the analysis made by any chemist of the Department of Agriculture of any antifreeze certified to by him shall be administered as evidence in any court of the State on trial of any issue involving the merits of antifreeze as defined and covered by this Article.

(d) When the Commissioner finds any antifreeze being distributed in violation of any of the provisions of this law or of any of the rules and regulations duly promulgated and adopted by the Board, he may request, and the person whose name and address appears on the labeling or the person who is primarily responsible for the product must promptly supply to him, the distribution data for such product in this State, so as to assure that violative products are not further distributed herein and that an orderly withdrawal from distribution may be attained where necessary to protect the public interest.

Sec. 11. *Submission of formula.* When application for a license or permit to sell antifreeze in this State is made to the Commissioner, he may require the applicant to furnish a statement of the formula or contents of such antifreeze, which said statement shall conform to rules and regulations established by the Commissioner; provided, however, that the statement of formula or contents may state the content of inhibitor ingredients in generic terms if such inhibitor ingredients total less than five percent (5%) by weight of the antifreeze and if in lieu thereof the manufacturer, packer, seller or distributor furnishes the Commissioner with satisfactory evidence, other than by disclosure of the actual chemical names and percentages of the inhibitor ingredients, that the said antifreeze is in conformity with this act and any rules and regulations promulgated and adopted by the Board. All statements of content, formulas or trade secrets furnished under this section shall be privileged and confidential and shall not be made public or open to the inspection of any person, firm, association or corporation other than the Commissioner. All such statements of contents shall not be subject to subpoena nor shall the same be exhibited or disclosed before any administrative or judicial tribunal by virtue of any order or

subpoena of such tribunal unless with the consent of the applicant furnishing such statements to the Commissioner; provided, however, that in emergency situations information may be revealed to physicians or to other qualified persons for use in preparation of antidotes. The disclosure of any such information, except as provided in this section, shall be a misdemeanor.

Sec. 12. *Violation.* (a) Any person who shall be adjudged to have violated any provision of this law, or any regulation of the Board adopted pursuant to this law, shall be guilty of a misdemeanor, and for each violation shall be fined not less than one hundred dollars ($100.00) nor more than one thousand dollars ($1,000) or shall be imprisoned for not more than sixty (60) days, or both. In addition, if any person continues to violate or further violates any provision of this law after written notice from the Commissioner, the court may determine that each day during which the violation continued or is repeated constitutes a separate violation subject to the foregoing penalties.

(b) Nothing in this law shall be construed as requiring the Commissioner to: (1) report for prosecution, or (2) institute seizure proceedings, or (3) issue a "stop sale" or "withdrawal from distribution" order, as a result of minor violations of the law, or when he believes the public interest will best be served by suitable notice of warning in writing to the registrant or the person whose name and address appears on the labeling.

(c) It shall be the duty of each solicitor to whom any violation is reported to cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay.

(d) The Commissioner is hereby authorized to apply for and the court to grant a temporary restraining order and a preliminary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this law or any rules or regulation promulgated under the law notwithstanding the existence of other remedies at law.

(e) Any person adversely affected by an act, order, or ruling made pursuant to the provisions of this law may within thirty (30) days thereafter bring action in the Superior Court of Wake County for judicial review of such act, order or ruling according to the provisions of Article 33 of Chapter 143 of the General Statutes.

Sec. 13. *Publications.* (a) The commission may publish or furnish, upon request, a list of the brands and classes or types of antifreeze inspected by the State Chemist during the fiscal year which have been found to be in accord with this Article and for which a license or permit for sale has been issued.

(b) The Commissioner may cause to be published from time to time reports summarizing all judgments, decrees, and court orders which have been rendered under this Article including the nature of the charge and the disposition thereof.

(c) The Commissioner may also cause to be disseminated such information regarding antifreezes as he deems necessary in the interest of protection of the public. Nothing in this section shall be construed to prohibit the Commissioner from collecting, reporting, and illustrating the results of the investigations of the department.

Sec. 14. *Constitutionality.* If any provision of this law is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of this law and the

applicability thereof to other persons and circumstances shall not be affected thereby.

Sec. 15. *Exclusive jurisdiction.* Jurisdiction in all matters pertaining to the distribution, sale and transportation of antifreeze by this law are vested exclusively in the Board and Commissioner.

Sec. 16. *Repeal.* (a) All laws and clauses of laws in conflict with or inconsistent with the provisions of this act are hereby repealed and Article 51, Chapter 106 of the General Statutes is hereby specifically repealed.

(b) Notwithstanding any other provisions of law, all existing rules and regulations concerning the sale and inspection of antifreeze substances and preparations of the State of North Carolina Department of Agriculture and any other agency of the State of North Carolina, not inconsistent with the provisions of this act shall continue in full force and effect until repealed, modified or amended.

Sec. 17. *Effective date.* This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 23rd day of June, 1975.

S. B. 199 **CHAPTER 720**

AN ACT TO CLARIFY AND MAKE UNIFORM THE LAW RELATING TO CREDIT FOR PRISONERS FOR TIME SPENT ON PAROLE AND CONDITIONAL RELEASE AND TO ALLOW THE SECRETARY OF CORRECTION TO CONDITIONALLY RELEASE COMMITTED YOUTHFUL OFFENDERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 148-42 as found in the 1974 Supplement to Volume 3C of the General Statutes is rewritten to read as follows:

"§ 148-42. *Indeterminate sentences.*—The several judges of the superior court are authorized in their discretion in sentencing prisoners to imprisonment to commit the prisoner to the custody of the Secretary of Correction for a minimum and maximum term. The maximum term imposed shall not exceed the limit otherwise prescribed by law for the offense of which the person is convicted. At any time after the prisoner has served the minimum term less earned allowances for good behavior, pursuant to G.S. 143B-266(b), the Parole Commission is authorized to unconditionally discharge such person."

Sec. 2. Article 3A of Chapter 148 of the General Statutes, as the same is found in the 1974 Supplement to Volume 3C of the General Statutes, is amended by:

(1) inserting the words "or parole" after the words "conditional release" and before the comma "," on line 6 of G.S. 148-49.1;

(2) amending the short title and the first sentence of G.S. 148-49.6 to read as follows:

"§ 148-49.6. *Placement of youthful offenders.*—On receipt of the report and recommendations from the diagnostic and classification center, the Secretary of Correction may (a) recommend to the Parole Commission that the committed youthful offender be paroled under supervision, (b) order the committed youthful offender confined and afforded treatment under such conditions as he believes best designed for the protection of the public, or (c) order the immediate conditional release as provided in G.S. 148-49.8.";

(3) rewriting G.S. 148-49.8 to read as follows:

"§ 148-49.8. *Release of youthful offenders.*—(a) When, in the judgment of the Secretary of Correction, a committed youthful offender is ready for parole under supervision, the Secretary shall so report to the Parole Commission with his recommendations. The Parole Commission may at any time after reasonable notice to the Secretary of Correction parole under supervision a committed youthful offender, pursuant to the provisions of Article 4 of this Chapter.

(b) When the Parole Commission releases conditionally under supervision any committed youthful offender, the time that the committed youthful offender spends at liberty on that conditional release shall be limited and shall be credited toward his active sentence in the same manner as would have occurred had such person been paroled pursuant to Article 4 of this Chapter.

(c) A committed youthful offender shall be paroled under supervision on or before the expiration of four years from the date of his commitment and may be discharged unconditionally before the expiration of the maximum term imposed.

(d) The Parole Commission, without the approval of the Secretary of Correction, may release a committed youthful offender on parole within the last 90 days of his maximum term of commitment.

(e) The Parole Commission may revoke or modify any of its orders respecting a committed youthful offender except an order of unconditional discharge. Upon the unconditional discharge by the Parole Commission of a committed youthful offender before the expiration of the maximum sentence imposed upon him, all rights of citizenship which he forfeited on conviction shall be automatically restored and the Parole Commission shall issue to the youthful offender a certificate to that effect."; and

(4) inserting on line 2 of G.S. 148-49.9 the words "or paroled" after the words "offenders conditionally released".

Sec. 3. Article 4 of Chapter 148 of the General Statutes as found in the 1974 Supplement to Volume 3C of the General Statutes is amended by:

(a) rewriting subsection (a) of G.S. 148-58.1 to read as follows:

"§ 148-58.1. *Credit for time spent on parole; effect of discharge; relief from further reports; permission to leave State or county.*—(a) The time a parolee is at liberty on parole and in compliance with all terms and conditions of that parole shall be credited on a day-for-day basis against the sentence imposed by the court; provided, however, that such parolee shall receive no such credit for the period of the last six months of his parole or for the period such parolee spends in a correctional institution of any jurisdiction after having been convicted of a crime. In the event no revocation proceedings are instituted within the final six months of parole supervision, the Parole Commission shall unconditionally discharge such parolee. The period of parole shall not exceed the maximum term of imprisonment to which the parolee was sentenced, less the period of time during which the prisoner has been imprisoned under such sentence. The official discharge by the Parole Commission of a parolee shall have the effect of terminating the sentence or sentences under which the parolee was paroled."; and

(b) by rewriting subsection (a) of G.S. 148-61.1 to read as follows:

"§ 148-61.1. *Revocation of parole by Commission; conditional or temporary revocation.*—(a) The Parole Commission may at any time revoke the order of

parole of any parolee. If any parolee shall have his parole revoked, he thereafter shall be returned to the custody of the Secretary of Correction."

Sec. 4. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 23rd day of June, 1975.

S. B. 389 **CHAPTER 721**

AN ACT TO DELETE THE DEPARTMENT OF CORRECTION FROM THE PROVISIONS OF THE ADMINISTRATIVE PROCEDURE ACT AND TO PROVIDE FOR FILING OF DEPARTMENT RULES WITH THE ATTORNEY GENERAL.

The General Assembly of North Carolina enacts:

Section 1. The second sentence of G.S. 150A-1, as it presently appears in the 1974 Supplement to Volume 3C of the General Statutes of North Carolina, is hereby amended to read as follows:

"The following are specifically exempted from the provisions of this Chapter: the Employment Security Commission; the Industrial Commission; the Occupational Safety and Health Review Board; the Department of Correction; and the Utilities Commission."

Sec. 2. Article 6, Part 1, of Chapter 143B, as it presently appears in the 1974 Supplement to Volume 3C of the General Statutes of North Carolina, is hereby amended by adding a new Section 143B-261.1 to read as follows:

"The Department of Correction shall adopt rules and regulations related to the conduct, supervision, rights and privileges of persons in its custody or under its supervision. Such rules and regulations shall be filed with and published by the Office of the Attorney General and shall be made available by the department for public inspection. The rules and regulations shall include a description of the organization of the department. A description or copy of all forms and instructions used by the department, except those relating solely to matters of internal management, shall also be filed with the Office of the Attorney General."

Sec. 3. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 4. This act shall become effective as of February 1, 1976.

In the General Assembly read three times and ratified, this the 23rd day of June, 1975.

S. B. 406 **CHAPTER 722**

AN ACT TO PROVIDE FOR THE MANUFACTURE AND DISTRIBUTION OF WINE AND THE FURNISHING OF WINE FOR PROMOTIONAL PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 18A-38 is amended by deleting the first 10 lines thereof and by inserting in lieu thereof the following:

"The State Board of Alcoholic Control shall be referred to herein as 'the Board'. The Board shall have the sole power, in its discretion, to determine the fitness and qualifications of an applicant for a permit to sell, manufacture, or bottle malt beverages or wine (fortified and unfortified). The Board shall

inquire into the character of the applicant and the location, general appearance, and type of place of business of the applicant. The Board, in addition to all powers now conferred upon it by law, is hereby vested with additional powers to regulate the distribution and sale of wine (fortified and unfortified) and malt beverages as follows:

(a) Permits issued to wineries, importers and wholesalers shall be as follows:

(1) Unfortified Winery Permits shall authorize the permittee to manufacture unfortified wines and to sell and deliver or ship the same in accordance with the regulations of the Board, in bottles or other closed containers to persons permitted under the provisions of this Chapter and Article 2C of Chapter 105 to sell at wholesale. A holder of an Unfortified Winery Permit may sell unfortified wine to nonresident wholesalers when the purchase is not for resale in this State.

(2) Fortified Winery Permits shall authorize the permittee to manufacture, purchase, import, and transport brandy and other ingredients and equipment used in the manufacture of fortified wines. A permittee holding a Fortified Winery Permit may manufacture fortified wines and sell and deliver or ship the same in accordance with the regulations of the Board in bottles, or other permitted closed containers to persons authorized under the provisions of this Chapter to sell at wholesale. The permittee may also sell fortified wine to nonresident wholesalers when the purchase is not for resale in this State.

(3) Limited Winery Permits. A resident winery holding an Unfortified Winery Permit may also obtain a Limited Winery Permit from the State Board of Alcoholic Control provided that the winery produces its wines principally from honey, grapes or other fruit grown in North Carolina. A Limited Winery Permit shall authorize the permittee to provide visitors with samples for tasting free of charge subject to the rules and regulations of the State Board of Alcoholic Control and the North Carolina Department of Revenue.

(4) Wine Importers Permits authorize the permittee to import wines from outside the United States in bottles, or other closed containers to warehouse, and sell the same at wholesale for purposes of resale.

(5) Wholesale Unfortified Wine Permits authorize the permittee to acquire and receive delivery shipments of unfortified wine and to sell and deliver or ship the same in accordance with regulations of the Board, in bottles or other closed containers, approved by the Board, to persons licensed under the provisions of this Chapter to sell the same at wholesale or retail for purposes of resale. An unfortified wine wholesaler may furnish and sell unfortified wine to his employees subject to the regulations of the State ABC Board and the North Carolina Department of Revenue.

(6) Fortified Wine Wholesalers Permits shall authorize the permittee to possess, transport, warehouse and sell as a wholesaler, fortified wines in any county of the State provided such sales are to persons, firms or corporations that are licensed under the provisions of this Chapter and Chapter 105. A fortified wine wholesaler may furnish or sell fortified wine to his employees subject to the regulations of the State ABC Board and the North Carolina Department of Revenue."

Sec. 2. G.S. 105-113.83 is amended in the third paragraph to read as follows:

"§ 105-113.83. *Annual State license to sell unfortified wine at retail.*—If the license issued to any person by any municipality or county to sell the beverages referred to in this Article shall be revoked by the proper officers of such municipality or county, or by any court, it shall be the duty of the Secretary of Revenue to revoke the State license of such licensee; and in such event, the licensee shall not be entitled to a refund of any part of the license tax paid. It shall be unlawful for any wholesale licensee to make any sale or delivery of unfortified wine to any person except persons who have been licensed to sell such beverages at retail or wholesale as prescribed in this Article."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1975.

S. B. 461 **CHAPTER 723**

AN ACT AUTHORIZING CITIES TO WAIVE THEIR GOVERNMENTAL IMMUNITY FROM TORT LIABILITY BY THE PURCHASE OF LIABILITY INSURANCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-485 is hereby rewritten to read as follows:

"§ 160A-485. *Waiver of immunity through insurance purchase.*—(a) Any city is authorized to waive its immunity from civil liability in tort by the act of purchasing liability insurance. Immunity shall be waived only to the extent that the city is indemnified by the insurance contract from tort liability. No formal action other than the purchase of liability insurance shall be required to waive tort immunity, and no city shall be deemed to have waived its tort immunity by any action other than the purchase of liability insurance.

(b) An insurance contract purchased pursuant to this section may cover such torts and such officials, employees, and agents of the city as the governing board may determine. The city may purchase one or more insurance contracts, each covering different torts or different officials, employees, or agents of the city. An insurer who issues a contract of insurance to a city pursuant to this section thereby waives any defense based upon the governmental immunity of the city, and any defense based upon lack of authority for the city to enter into the contract. Each city is authorized to pay the lawful premiums for insurance purchased pursuant to this section.

(c) Any plaintiff may maintain a tort claim against a city insured under this section in any court of competent jurisdiction. As to any such claim, to the extent that the city is insured against such claim pursuant to this section, governmental immunity shall be no defense. Except as expressly provided herein, nothing in this section shall be construed to deprive any city of any defense to any tort claim lodged against it, or to restrict, limit, or otherwise affect any defense that the city may have at common law or by virtue of any statute. Nothing in this section shall relieve a plaintiff from any duty to give notice of his claim to the city, or to commence his action within the applicable period of time limited by statute. No judgment may be entered against a city in excess of its insurance policy limits on any tort claim for which it would have been immune but for the purchase of liability insurance pursuant to this section.

No judgment may be entered against a city on any tort claim for which it would have been immune but for the purchase of liability insurance pursuant to this section except a claim arising at a time when the city is insured under an insurance contract purchased and issued pursuant to this section. If, in the trial of any tort claim against a city for which it would have been immune but for the purchase of liability insurance pursuant to this section, a verdict is returned awarding damages to the plaintiff in excess of the insurance limits, the presiding judge shall reduce the award to the maximum policy limits before entering judgment.

(d) Except as otherwise provided in this section, tort claims against a city shall be governed by the North Carolina Rules of Civil Procedure. No document or exhibit which relates to or alleges facts as to the city's insurance against liability shall be read, exhibited, or mentioned in the presence of the trial jury in the trial of any claim brought pursuant to this section, nor shall the plaintiff, his counsel, or anyone testifying in his behalf directly or indirectly convey to the jury any inference that the city's potential liability is covered by insurance. No judgment may be entered against the city unless the plaintiff waives his right to a jury trial on all issues of law or fact relating to insurance coverage. All issues relating to insurance coverage shall be heard and determined by the judge without resort to a jury. The jury shall be absent during all motions, arguments, testimony, or announcement of findings of fact or conclusions of law with respect to insurance coverage. The city may waive its right to have issues concerning insurance coverage determined by the judge without a jury, and may request a jury trial on these issues.

(e) Nothing in this section shall apply to any claim in tort against a city for which the city is not immune from liability under the statutes or common law of this State."

Sec. 2. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1975.

S. B. 490 CHAPTER 724

AN ACT TO AMEND G.S. 115-88(a) AUTHORIZING THE CLERK OF THE SUPERIOR COURT TO ACT AS AN ARBITRATOR IN THE EVENT OF A DISAGREEMENT BETWEEN COUNTY OR CITY BOARDS OF EDUCATION AND THE TAX LEVYING AUTHORITIES AS TO THE AMOUNT OF THE CURRENT EXPENSE FUND, THE CAPITAL OUTLAY FUND, AND THE DEBT SERVICE FUND.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115-88(b) is amended by rewriting the paragraph as follows:

"(b) If no agreement is reached at the joint meeting of the two boards, either board may refer the dispute to the clerk of superior court for arbitration within three days after the day of the joint meeting. The clerk, except as hereinafter provided, shall render his decision on the matters in disagreement within 10 days after the day of the referral. The clerk of the superior court shall have the authority to subpoena or issue any orders necessary to have appear before him any member of a board of education and any member of a board of commissioners involved in the dispute and to require that the records of either

board be presented to him for the purpose of arbitration of the issues. In the event the clerk of the superior court finds as a fact that 'the tax levying authority or' a board or boards of education are unwilling to arbitrate the disagreement or that the issues in disagreement cannot be resolved by arbitration, he shall transfer the matter to the Superior Court Division of the General Court of Justice for trial as hereinafter provided."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

S. B. 532

CHAPTER 725

AN ACT TO AUTHORIZE THE CONSTRUCTION AND THE FINANCING, WITHOUT APPROPRIATIONS FROM THE GENERAL FUND, OF CERTAIN CAPITAL IMPROVEMENTS PROJECTS BY CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. The purpose of this act is to authorize construction, by certain constituent institutions of The University of North Carolina, of the capital improvements projects listed herein for each such institution, and to authorize the financing of the said capital improvements projects with funds available to said institutions from gifts, grants, receipts, special funds, self-liquidating indebtedness, or other funds, or any combination of such funds, but not including funds appropriated from the General Fund of the State; provided, however, that no part of the proceeds from the sale, lease, transfer or other disposition of the electric, water and telephone companies owned and operated by the University of North Carolina at Chapel Hill shall be used to finance the construction of the capital improvements projects herein enumerated, notwithstanding the provisions of Section 11 of Chapter 723 of 1971 and of G.S. 146-30, third.

Prior to the execution of design contracts for the projects authorized herein, the Advisory Budget Commission shall approve the method of funding such projects.

Sec. 2. The projects hereby authorized to be constructed and financed as provided in Section 1 of this act, are as follows:

1. Appalachian State University	
a. Frozen Food Storage Facility	$ 30,000
b. Stadium Improvements	800,000
2. Elizabeth City State University	
Renovation of Symera Hall (Dormitory)	245,000
3. Fayetteville State University	
Renovation of Four Dormitories (Joyner, Harris, Hood & Williams)	1,125,000
4. North Carolina Agricultural and Technical State University	
a. Renovation of Scott Hall (Dormitory)	1,545,000
b. Construction of 350-Student Dormitory	2,450,000
c. Renovation of Cooper Hall (Dormitory)	30,000
5. North Carolina Central University	

a. Renovation of Rush Hall (Dormitory)	285,000
b. Renovation of Chidley Hall (Dormitory)	690,000
6. North Carolina State University at Raleigh	
Electrical Renovations of Two Dormitories (Gold & Welch)	90,000
7. The University of North Carolina at Chapel Hill	
a. Addition to Kenan Stadium	3,000,000
b. Tennis Complex	300,000
c. Laboratory Building, Department of Art	300,000
d. Family and Community Health Sciences Building, School of Medicine	4,500,000
8. The University of North Carolina at Charlotte	
Outdoor Physical Education and Playing Fields	750,000
9. The University of North Carolina at Greensboro	
a. Renovation of Student Dining Halls	400,000
b. Construction of Parking Area for 300 Cars	100,000
10. Winston-Salem State University	
Renovation of Dining Hall	465,000

Sec. 3. The Advisory Budget Commission may, when in its opinion it is in the best interest of the State to do so, and upon the request of the institution concerned, authorize an increase or decrease in the scope or a change in the method of funding of any project authorized by this act.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

S. B. 628 CHAPTER 726

AN ACT TO PERMIT CARNIVAL COMPANIES AND RIDING DEVICE OPERATORS TO OPERATE UNDER A SINGLE LICENSE FOR ANY SEVEN CONSECUTIVE DAYS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-39(a) is amended by adding at the end thereof a new paragraph, to read as follows:

"Provided, further, that the word 'week' shall, for the purpose of this section, mean any seven consecutive days."

Sec. 2. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

S. B. 664 **CHAPTER 727**

AN ACT TO INCREASE THE CHARGE FOR REPLACEMENT REGISTRATION PLATES FROM ONE DOLLAR ($1.00) TO FIVE DOLLARS ($5.00).

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-85 is hereby amended by rewriting (5) of the schedule in G.S. 20-85 as follows:

"(5) Each set of replacement registration plates $5.00."

Sec. 2. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

S. B. 762 **CHAPTER 728**

AN ACT TO DEFINE THE PENALTY FOR THE UNLAWFUL TAKING OF FISH BY MEANS OF POISONS, DRUGS, EXPLOSIVES OR ELECTRICITY.

The General Assembly of North Carolina enacts:

Section 1. Subsection (a) of G.S. 113-262 is hereby amended by inserting immediately after the word "punishable" and preceding the word "in" the following: "by a fine of not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00)".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

S. B. 777 **CHAPTER 729**

AN ACT TO AMEND G.S. 108-77 SO AS TO PROVIDE FOR CATEGORY LICENSING OF FAMILY CARE HOMES AND HOMES FOR THE AGED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 108-77, as the same appears in the 1975 Replacement Volume 3A of the General Statutes, is amended by adding the following sentences at the end of subsection (a) thereof:

"For licensing purposes, the homes heretofore described as rest homes and convalescent homes for persons who are aged shall be divided into two categories. The first category shall be licensed as family care homes and may be occupied by no more than five persons being served. The second category shall be licensed as homes for the aged and may be occupied by six or more persons being served. The structure of a family care home may be no more than two stories in height; provided, however, that none of the aged or physically infirm persons being served in a family care home may be housed on the second floor of such home."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

S. B. 806 **CHAPTER 730**

AN ACT TO LIMIT DEPARTMENT OF CORRECTION IN ESTABLISHMENT AND SUPERVISION OF MANUFACTURING AND INDUSTRY.

The General Assembly of North Carolina enacts:

Section 1. The first paragraph of G.S. 148-70 as the same appears in the permanent Volume 3C of the General Statutes is hereby rewritten to read as follows:

"The State Department of Correction in all contracts for labor shall provide for feeding and clothing the inmates and shall maintain, control and guard the quarters in which the inmates live during the time of the contracts; and the Department shall provide for the guarding and working of such inmates under its sole supervision and control. The Department may make such contracts for the hire of the inmates confined in the State prison as may in its discretion be proper. In accordance with the provisions of Article 11 of Chapter 66 of the General Statutes, the Department may use the labor of inmates confined in the State prison in work on farms and manufacturing, either within or without the State prison. The Department may dispose of the products of the labor of the inmates, either in farming or in manufacturing or in other industry at the State prison system, to or for any public institution owned, managed, or controlled by the State, or to or for any county, city or town in the State. Provided however, no manufacturing or other industry shall be established, supervised or controlled by the Department unless specifically approved by the Advisory Budget Commission pursuant to G.S. 66-58(f)."

Sec. 2. G.S. 148-8 is hereby redesignated as a new subdivision (15) of subsection (b) of G.S. 66-58, and is amended by adding in line 3 of G.S. 148-8 between the word "tags" and the word "and" the words "for the State and local governments".

Sec. 3. G.S. 148-8.1 is hereby redesignated as a new subdivision (16) of subsection (b) of G.S. 66-58.

Sec. 4. G.S. 66-58 is hereby amended to add three new parts to subsection (c) to read as follows:

"(13) The operation by the Department of Correction of forestry management programs on State-owned lands, including the sale on the open market of timber cut as a part of such management program.

(14) The operation by the Department of Correction of facilities to manufacture and produce traffic and street name signs for use on the public streets and highways of the State.

(15) The operation by the Department of Correction of facilities to manufacture and produce paint for use on the public streets and highways of the State."

Sec. 5. G.S. 66-58 is hereby amended by adding a new subparagraph (f) to read as follows:

"(f) Notwithstanding the provisions of G.S. 66-58(a), the operation by the Department of Correction of facilities for the manufacture of any product or the providing of any service pursuant to G.S. 148-70 not regulated by the provisions of subsection (c) hereof, shall be subject to the prior approval of the Advisory Budget Commission, with biennial review by the General Assembly, at the beginning of each fiscal year commencing after the effective date of this act. The

Department of Correction shall file with the Director of the Budget quarterly reports detailing prison enterprise operations in such a format as shall be required by the Advisory Budget Commission."

Sec. 6. This act shall become effective on October 1, 1975.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

S. B. 850 **CHAPTER 731**

AN ACT TO CLARIFY CERTIFICATION REGULATIONS CONCERNING EMPLOYMENT OF EDUCATIONAL PERSONNEL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115-152 is rewritten to read as follows:

"All teachers, supervisors, and other professional personnel employed in the public schools of the State or in schools receiving public funds, shall be required either to hold or be qualified to hold a certificate in compliance with the provision of the law or in accordance with the regulations of the State Board of Education: Provided, that nothing herein shall prevent the employment of temporary personnel under such rules as the State Board of Education may prescribe: Provided further, that no person shall be employed to teach who is under 18 years of age."

Sec. 2. G.S. 115-155 is amended by deleting the first paragraph and by inserting in lieu thereof the following:

"It shall be unlawful for any board of education or school committee to employ or keep in service any teacher, supervisor, or professional person who neither holds nor is qualified to hold a certificate in compliance with the provision of the law or in accordance with the regulations of the State Board of Education."

Sec. 3. G.S. 115-166 is amended by deleting from the last sentence of the second paragraph the following phrase: "the county or city superintendent of schools or".

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

S. B. 853 **CHAPTER 732**

AN ACT TO AMEND G.S. 59-46 RELATING TO PARTNER BY ESTOPPEL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 59-46(a), as found in the 1975 Replacement to Volume 2B of the General Statutes, is amended on line 2 by inserting after the word "written" and before the words "or by contract" the following: ", by conduct,".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

S. B. 858 **CHAPTER 733**

AN ACT TO AMEND ARTICLE 6, CHAPTER 90 OF THE GENERAL STATUTES OF NORTH CAROLINA, RELATING TO OPTOMETRY.

The General Assembly of North Carolina enacts:

Section 1. Article 6 of Chapter 90 of the General Statutes is hereby amended by adding a new section G.S. 90-115.1 to read as follows:

"§ 90-115.1. *Acts not constituting the unlawful practice of optometry.*—In addition to the exemptions from this Article otherwise existing the following acts or practices shall not constitute the unlawful practice of optometry.

(1) The practice of optometry, in the discharge of their official duties, by optometrists in any branch of the military service of the United States or in the full employ of any agency of the United States.

(2) The teaching of optometry, in optometry schools or colleges operated and conducted in this State and approved by the North Carolina State Board of Examiners in Optometry, by any person or persons licensed to practice optometry anywhere in the United States or in any country, territory or other recognized jurisdiction; provided, however, that such teaching of optometry by any person or persons licensed in any jurisdiction other than a place in the United States must first be approved by the North Carolina State Board of Examiners in Optometry.

(3) The practice of optometry in optometry schools or colleges in this State approved by the North Carolina State Board of Examiners in Optometry by students enrolled in such schools or colleges when such practice is performed as a part of their course of instruction and is under the supervision of an optometrist who is either duly licensed in North Carolina or qualified under subdivision (2) above as a teacher. Additionally, the practice of optometry by such students at any location upon patients or inmates of institutions wholly owned or operated by the State of North Carolina or any political subdivision or subdivisions thereof, when in the opinion of the dean of such optometry school or college or his designee, the student's optometric education and experience is adequate therefor, subject to review and approval by the said Board of Examiners in Optometry, and such practice is a part of the course of instruction of such students, is performed under the supervision of a duly licensed optometrist acting as a teacher or instructor and is without remuneration except for expenses and subsistence as defined and permitted by the rules and regulations of said Board of Examiners in Optometry.

(4) The temporary practice of optometry by licensed optometrists of another state or of any territory or country when the same is performed, as clinicians, at meetings or organized optometric societies, associations, colleges or similar optometric organizations, or when such optometrists appear in emergency cases upon the specific call of and in consultation with an optometrist duly licensed to practice in this State.

(5) The practice of optometry by a person who is a graduate of an optometric school or college approved by the North Carolina State Board of Examiners in Optometry and who is not licensed to practice optometry in this State, when such person is the holder of a valid intern permit, or provisional license, issued to him by the North Carolina State Board of Examiners in Optometry pursuant to the terms and provisions of this Article, and when such practice of optometry complies with the conditions of said intern permit, or provisional license.

(6) Any act or acts performed by an optometric assistant or technician to an optometrist licensed to practice in this State when said act or acts are authorized and permitted by and performed in accordance with rules and regulations promulgated by the board.

(7) Optometric assisting and related functions as a part of their instructions by optometric assistant students enrolled in a course conducted in this State and approved by the board, when such functions are performed under the supervision of an optometrist acting as a teacher or instructor who is either duly licensed in North Carolina or qualified for the teaching of optometry pursuant to the provisions of subdivision (2) above."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

S. B. 864 CHAPTER 734

AN ACT TO AMEND CHAPTER 166 OF THE GENERAL STATUTES RELATING TO CIVIL PREPAREDNESS FOR NATURAL AND MAN-MADE DISASTERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 166-1.1 is hereby rewritten to read as follows:

"§ 166-1.1. *Purposes.*—The purposes of this Chapter are to:

(1) Clarify the authority and responsibility of the Governor, State agencies and local governments in prevention of, preparation for, response to and recovery from natural or man-made disasters, riots, or hostile military or paramilitary action.

(2) Reduce the vulnerability of people and property to damage, injury, and loss of life and property resulting from natural or man-made disasters.

(3) Prepare for prompt and efficient rescue, care and treatment of persons threatened or affected by a disaster, and provide for the prompt and orderly rehabilitation of persons and the restoration of property.

(4) Authorize and provide for cooperation and coordination of activities relating to disaster mitigation, preparedness, response and recovery among agencies and officials of this State.

(5) Provide for cooperation and coordination of those same activities with similar agencies and officials of other states, with local and federal governments, with interstate organizations and with other private and quasi-official organizations.

(6) Provide for a civil preparedness program embodying all aspects of predisaster planning, response to and recovery from natural or man-made disasters."

Sec. 2. Chapter 166 of the General Statutes is hereby amended by adding a new section, G.S. 166-1.2, to read as follows:

"§ 166-1.2. *Limitations.*—(1) No authority contained in this Chapter shall be used for any purpose other than the prevention or mitigation of an imminent or existing danger to the public health, safety, or welfare, or the impairment thereof.

(2) Nothing in this act shall be construed to interfere with dissemination of news or comment on public affairs; but any communications facility or organization, including but not limited to radio and television stations, wire

services, and newspapers, may be requested to transmit or print public service messages furnishing information or instructions in connection with a disaster."

Sec. 3. Chapter 166 of the General Statutes is hereby amended by adding a new section, G.S. 166-1.3, to read as follows:

"§ 166-1.3. *Nondiscrimination in civil preparedness.*—State and local governmental bodies and other organizations and personnel who carry out civil preparedness functions under the provisions of this Chapter are required to do so in an equitable and impartial manner. Such State and local governmental bodies, organizations and personnel shall not discriminate on the grounds of race, color, religion, nationality, sex, age or economic status in the distribution of supplies, the processing of applications and other relief and assistance activities."

Sec. 4. G.S. 166-2(1) is hereby rewritten to read as follows:

"(1) Civil preparedness shall mean those plans, actions and procedures necessary to provide protection to the people against loss of life, injury, and loss or damage to property caused by natural phenomena or man-made causes such as war, insurrection, riot or accidents; and those measures necessary to mitigate the effects of the destructive forces of man and nature, to provide for response to disaster conditions and for the relief of suffering and hardship resulting from such conditions and to initiate rehabilitation of persons and restoration of essential services and acceptable standards of living."

Sec. 5. G.S. 166-2(2) is hereby rewritten to read as follows:

"(2) 'Civil Preparedness Agency' shall mean a State or local governmental agency charged with coordination of the following: civil preparedness planning, response to threatened or actual disaster conditions, and measures for rehabilitation of persons and restoration of services and property following a disaster."

Sec. 6. G.S. 166-2 is hereby amended by adding at the end thereof a new subparagraph (5) to read as follows:

"(5) 'Organization for Civil Preparedness' shall mean all individuals or groups of persons and materiel resources capable of being utilized in a disaster or imminent threat thereof, such utilization to be coordinated by a civil preparedness agency."

Sec. 7. G.S. 166-3 is hereby amended by adding the following to the end thereof:

"The Secretary of the Department of Military and Veterans Affairs shall be responsible to the Governor for carrying out the program for civil preparedness in this State. He shall coordinate the activities of all organizations for civil preparedness within the State, and shall maintain liaison with and cooperate with civil preparedness agencies and organizations of other states and of the federal government, and shall have such additional authority, duties, and responsibilities authorized by this Chapter as may be prescribed by the Governor."

Sec. 8. G.S. 166-4 is hereby deleted.

Sec. 9. G.S. 166-5(b)(1) is hereby rewritten as follows:

"(1) To make, amend, and rescind the necessary orders, rules, and regulations to carry out the provisions of this Chapter within the limits of the authority conferred upon him herein, with due consideration of the plans of the federal government. The Governor may issue executive orders pursuant to this subparagraph which shall be filed with the Secretary of State and available to

the public generally at the office of the clerk of the superior court in the affected counties."

Sec. 10. G.S. 166-5(b) is further amended by adding three new provisions, (9), (10) and (11) to read as follows:

"(9) To take steps to assure that measures, including the installation of public utilities, are taken when necessary to qualify for temporary housing assistance from the federal government when that assistance is required to protect the public health, welfare, and safety.

(10) To agree that the State will indemnify the federal government against any claim arising from debris removal when federal assistance is provided for that purpose.

(11) By and with the consent of the Council of State to allocate contingency and emergency funds, and such other funds when necessary as may be reasonably available within the appropriations of the various departments, for disaster relief and assistance."

Sec. 11. Chapter 166 is hereby amended by adding a new section, G.S. 166-6.1, to read as follows:

"§ 166-6.1. *Authority of Governor during a state of natural or accidental disaster.*—The provisions of this section shall be operative only during the existence of a state of natural or accidental disaster (hereinafter referred to jointly as 'State of Disaster'). The existence of a state of disaster may be proclaimed by the Governor or by joint resolution of the legislature, if the Governor in such proclamation or the legislature in such resolution finds that a disaster arising from either natural or accidental causes has actually occurred or is imminent within this State, and that such disaster calls for immediate action beyond the normal functioning of local or State governments. Any such state of disaster whether proclaimed by the Governor or by the legislature, shall terminate upon the proclamation of the termination thereof by the Governor, or the passage by the legislature of a joint resolution terminating such state of disaster. During such period as the state of disaster exists or continues, the Governor may assume any of the following additional disaster powers if the Council of State concurs in the Governor's assumption of the particular power or powers to be assumed:

(1) To utilize all available State and local resources as reasonably necessary to cope with a disaster including the transfer and direction of personnel or functions of State agencies or units thereof for the purpose of performing or facilitating disaster services.

(2) To enforce all laws, rules, and regulations, relating to civil preparedness and to assume direct operational control over any or all civil preparedness activities within the State.

(3) To sell, lend, lease, give, transfer, or deliver materials or perform services for civil preparedness purposes on such terms and conditions as may be prescribed for any existing law, and to account to the State Treasurer for any funds received for such property.

(4) To direct and compel the evacuation of all or part of the population from any stricken or threatened area within the State if he deems this action necessary for the preservation of life or other disaster response, mitigation, or recovery; and to prescribe routes, modes of transportation, and destination in connection with evacuation.

(5) To control ingress and egress of a disaster area, the movement of persons within the area, and the occupancy of premises therein.

(6) To take such action and give such directions to State and local law enforcement officers and agencies as may be reasonable and necessary for the purpose of securing compliance with the provisions of this Chapter and with the orders, rules and regulations made pursuant thereto, which officers and agencies shall comply with such direction.

(7) To take action authorized under the provisions of this Chapter without regard to a particular order, rule, or regulation of a State agency if such action is necessary to protect the safety and welfare of the inhabitants of this State, and if strict compliance with such order, rule, or regulation would in any way prevent, hinder, or delay such action."

Sec. 12. G.S. 166-8 is hereby amended by adding a new subsection (c) at the end thereof to read as follows:

"(c) A local state of emergency may be declared by the governing body of any municipality or county upon the occurrence of or imminent threat of a natural disaster. Such a declaration shall activate the local ordinances authorized in G.S. 14-288.12 through G.S. 14-288.14 and any and all applicable local plans, mutual assistance compacts and agreements and shall also authorize the furnishing of assistance thereunder. The timing, publication, amendment and recision of local state of emergency declarations shall be in accordance with the local ordinance."

Sec. 13. G.S. 166-10 is hereby amended by adding a new subsection (d) at the end thereof to read as follows:

"(d) Either the state or a political subdivision in the state may accept grants from the federal government for use in recovery from disasters and for that purpose may, within the limits of any applicable Constitutional requirements, accept advances and loans from the federal government, including loans for public works and development facilities, for governmental operating expenses, and for individual and family grant programs."

Sec. 14. Wherever the term "civil defense" appears in Chapter 166 of the General Statutes the same shall be deleted and the term "civil preparedness" shall be inserted in lieu thereof.

Sec. 15. G.S. 20-125(b) is hereby amended by deleting the term "civil defense" in the third sentence of the sixth paragraph and inserting in lieu thereof the term "civil preparedness".

Sec. 16. Whenever the words "civil defense organization", "local organization for civil defense" or "local organization" when referring to the local civil defense organization, appear in the following sections of Chapter 166, the same shall be deleted and the words "civil preparedness agency" shall be inserted in lieu thereof: G.S. 166-8(a) lines 2-3, 5, 6, 8, 9, and 13; G.S. 166-9(a) lines 1-2; G.S. 166-9(b) line 1; G.S. 166-11 line 10; G.S. 166-12, lines 2-3 and 9.

Sec. 17. G.S. 153A-149(c)(9) is hereby amended by deleting the phrase "Civil Defense - To provide for civil defense programs" and inserting in lieu thereof "Civil Preparedness - To provide for civil preparedness programs".

Sec. 18. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

S. B. 883

CHAPTER 735

AN ACT TO AMEND G.S. 20-118 TO CHANGE THE SINGLE AXLE WEIGHT FOR CERTAIN MOTOR VEHICLES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-118 is hereby amended by rewriting subsection (4) to read as follows:

"(4) The single axle weight when the wheels attached to said axle are equipped with low pressure pneumatic tires, 19,000 pounds, provided that the maximum weight per axle when in tandem shall remain at 18,000 pounds."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

S. B. 890

CHAPTER 736

AN ACT TO AMEND G.S. 20-118(5) TO EXEMPT TRUCKS OR OTHER MOTOR VEHICLES TRANSPORTING SUPPLIES, MATERIAL OR EQUIPMENT NECESSARY IN CARRYING OUT FARMING OPERATIONS FROM PENALTIES PROVIDED THEREIN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-118(5) as the same appears in the 1974 Cumulative Supplement to Volume 1C of the General Statutes is hereby amended on line 18 by inserting between the word and punctuation "action." and the word "Provided" the following sentence: "Provided, that a truck or other motor vehicle whose axle load exceeds that prescribed for light traffic roads shall be exempt from such limitations when transporting supplies, material or equipment necessary to carry out a farming operation engaged in the production of meats and row crops when the destination of such vehicle and load is located solely upon said light traffic road."

Sec. 2. Provided further that nothing herein contained shall be construed in order to raise the load limit heretofore or hereafter set by the Department of Transportation on any bridge.

Sec. 3. In the event of undue damage to any light traffic road heretofore referred as a result of this action, such road or roads may then be restricted by the Division of Highways.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

S. B. 906 **CHAPTER 737**

AN ACT TO CHANGE THE NAME OF THE COMMISSION ON THE EDUCATION AND EMPLOYMENT OF WOMEN AS DEFINED IN G.S. 143, ARTICLE 50, TO "COMMISSION ON THE STATUS OF WOMEN".

The General Assembly of North Carolina enacts:

Section 1. G.S. 143, Article 50, as the same appears in Volume 3C of the General Statutes is hereby amended by changing the title of the Article from "Commission on the Education and Employment of Women" to a new title, "Commission on the Status of Women".

Sec. 2. G.S. 143-424 as the same appears in Volume 3C of the General Statutes is hereby amended on lines 1 and 2 by deleting "Commission on the Education and Employment of Women" and substituting in lieu thereof "Commission on the Status of Women".

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

S. B. 929 **CHAPTER 738**

AN ACT TO PROVIDE FOR THE ELECTION OF THE DURHAM CITY BOARD OF EDUCATION BY THE QUALIFIED VOTERS IN THE SCHOOL DISTRICT ADMINISTERED BY IT COMMENCING IN 1975 AND QUADRENNIALLY THEREAFTER.

The General Assembly of North Carolina enacts:

Section 1. Section 4, Chapter 86, Session Laws of 1887 and all other laws and clauses of laws in conflict herewith are hereby repealed, and all present terms of membership on the Durham City Board of Education, whether or not now filled, shall expire on the first Monday in December, 1975. At that time, a new Durham City Board of Education, consisting of five members, and having been selected in accordance with the procedures in Section 2 et seq. below, shall be sworn, take office, and serve the city school district for a term of four years.

Sec. 2. Commencing with and at the time of the primary election in 1975, the five members of the Durham City Board of Education shall be elected on a nonpartisan basis by the voters residing in the school district administered by it, and shall be so elected quadrennially thereafter. In any such election the names of the candidates shall be printed on the ballots without reference to any party affiliation and any qualified voter residing in the city school district shall be entitled to vote such ballots. Except as otherwise provided herein, the election shall be conducted according to the provisions of Chapter 163 of the General Statutes then governing municipal elections.

Sec. 3. No person shall be eligible for election to or continued service on the Durham City Board of Education unless such person shall be a bona fide resident of and in the geographical area within the boundaries of the Durham City School District at the time of filing his or her notice of candidacy, and continuously during the term for which elected.

Sec. 4. Those persons who shall be elected members of the Durham City Board of Education must qualify by taking the oath of office on or before the first Monday in December next succeeding their election. A failure to qualify within that time shall constitute a vacancy which shall be filled as hereinafter

set out. If any candidate elected pursuant to the provisions of this act shall die, resign or for any reason become ineligible or disqualified between the date of his election and the date of his qualification, such vacancy caused thereby shall be filled by appointment by the other persons elected in that election. All vacancies in the membership of the board after election and qualification of its members, by death, resignation or other cause, shall be filled by appointment by the remaining members of the board, of a person to serve for the remainder of the unexpired term.

Sec. 5. Members of the Durham City Board of Education shall be paid per diem compensation of twenty-five dollars ($25.00) for each board meeting attended, not to exceed three meetings per month, and fifteen cents (15¢) per mile to and from places of meeting.

Sec. 6. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. B. 403

CHAPTER 739

AN ACT TO AMEND G.S. 105-149(a)(10) TO ALLOW A PSYCHOLOGIST TO DETERMINE THE INTELLIGENCE QUOTIENT OF A RETARDED PERSON FOR PURPOSES OF A NORTH CAROLINA INCOME TAX EXEMPTION, AND TO REDEFINE "SEVERELY RETARDED".

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-149(a)(10), as the same appears in Volume 2D of the 1974 Cumulative Supplement to the General Statutes of North Carolina, is hereby amended by deleting on line 9 and 10 the words "Doctor or Psychiatrist" and insert instead, "Medical doctor licensed to practice in North Carolina or any medical doctor who has graduated from a medical college approved by the Board of Medical Examiners of the State of North Carolina and holds a license granted by any state of the United States or the District of Columbia or practicing psychologist or psychological examiner licensed to practice in North Carolina or any practicing psychologist or psychological examiner licensed or certified as a psychologist or psychological examiner by another state of the United States or the District of Columbia".

Sec. 2. This act shall become effective upon ratification and shall apply to all tax years beginning January 1, 1975.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. B. 424 **CHAPTER 740**

AN ACT TO EXCLUDE EMPLOYEES INJURED WHILE UNDER THE INFLUENCE OF DRUGS FROM ELIGIBILITY FOR WORKMEN'S COMPENSATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 97-12 as the same now appears in Replacement Volume 2D of the North Carolina General Statutes is hereby amended by rewriting the first sentence of that section to read as follows:

"No compensation shall be payable if the injury or death to the employee was proximately caused by:

(a) his intoxication, provided the intoxicant was not supplied by the employer or his agent in a supervisory capacity to the employee; or

(b) his being under the influence of any controlled substance listed in the North Carolina Controlled Substances Act, G.S. 90-86, et. seq., where such controlled substance was not by prescription by a practitioner; or

(c) his willful intention to injure or kill himself or another."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. B. 435 **CHAPTER 741**

AN ACT TO PROVIDE FOR THE REGISTRATION OF LANDSCAPE CONTRACTORS; TO PROHIBIT USE OF THE TITLE "LANDSCAPE CONTRACTOR" EXCEPT BY PERSONS DULY REGISTERED; TO CREATE THE NORTH CAROLINA BOARD OF LANDSCAPE CONTRACTORS AND TO PRESCRIBE ITS POWERS AND DUTIES.

The General Assembly of North Carolina enacts:

Section 1. On and after December 1, 1975, it shall be unlawful for any person, partnership, association or corporation in this State to use the title "Landscape Contractor", or to advertise as such without first obtaining a certificate issued by the North Carolina Landscape Contractors' Registration Board under provisions of this Chapter.

Sec. 2. A "Landscape Contractor" within the meaning of this Chapter is any person, partnership, association or corporation who for compensation or valuable consideration or promise thereof engages in the business requiring the art, experience, ability, knowledge, science and skill to install, plant, repair and maintain gardens, lawns, shrubs, vines, bushes, trees and other decorative vegetation including the grading and preparation of plots and areas of land for decorative treatment and arrangement; who constructs or installs garden pools, fountains, pavilions, conservatories, hothouses and greenhouses, incidental retaining walls, fences, walks, drainage and sprinkler systems; or who engages in incidental construction in connection therewith, or does any part thereof in such a manner that, under an agreed specification, an acceptable landscaping project can be executed.

Sec. 3. The provisions of this Chapter shall not apply to and shall not include any person, partnership, association or corporation who shall perform any of the acts aforesaid in Section 2 with reference to any property, so long as

that person, partnership, association or corporation shall not use the title "Landscape Contractor".

Sec. 4. (a) There is hereby created the North Carolina Landscape Contractors' Registration Board, hereinafter called the board, which shall issue registration certificates of title to landscape contractors. The board shall be composed of nine members. Two members shall be appointed by the Commissioner of Agriculture; two members shall be appointed by the Governor, with one being and having been for the preceding five years prior to the date of his appointment actively and principally engaged in the business of landscape contracting, and with one being a landscape architect as defined in G.S. 89A-1; and five members shall be appointed by the Board of Directors of the North Carolina Association of Nurserymen with at least one from the Western, Piedmont, Central, and Coastal Plain areas of the State.

On the initial board the appointees of the Commissioner of Agriculture shall serve for a term of three years; one of the appointees of the Governor shall serve for a term of two years and the other appointee shall serve for a term of one year; one of the appointees of the board of directors shall serve for a term of three years, two for a term of two years, and two for a term of one year. The initial appointments shall be made prior to December 1, 1975, and the terms of successors shall begin on December 1 of the appropriate year thereafter.

After the terms of the initial members of the board expire, all appointments shall be for terms of three years.

Any vacancy on the board created by death, resignation or otherwise shall be filled for the unexpired term by the appropriate appointing dean, commissioner, Governor, or board of directors.

(b) From its funds, the board shall pay its members at the rate set out in G.S. 93B-5: Provided, that at no time shall the expense exceed the cash balance on hand.

(c) The board shall have power to make such rules and regulations as are not inconsistent with the provisions of this Chapter and the laws of North Carolina. The board shall not make rules or regulations regulating commissions, salaries, or fees to be charged by registrants under this Chapter. The board shall adopt a seal for its use, which shall bear thereon the words "North Carolina Landscape Contractors' Registration Board".

(d) The Board may employ a secretary-treasurer and such clerical assistance as may be necessary to carry out the provisions of this Chapter and to put into effect such rules and regulations as the board may promulgate. The board shall fix salaries for employees and shall require employees to make good and sufficient surety bond for the faithful performance of their duties.

(e) The board shall be entitled to the services of the Attorney General of North Carolina in connection with the affairs of the board or may, on approval of the Attorney General, employ an attorney to assist or represent it in the enforcement of this Chapter, but the fee paid for such service shall be approved by the Attorney General.

Sec. 5. (a) Any person, partnership, association or corporation hereinafter desiring to register and be titled as a landscape contractor shall make written application for a certificate of title to the board on such forms as are prescribed by the board. Each applicant for a certificate of title as a landscape contractor shall be at least 18 years of age. Prior to July 1, 1976, each applicant for a certificate shall have been actively engaged as an untitled landscape

contractor for at least one year prior to date of application. After July 1, 1976, an applicant shall furnish evidence satisfactory to the board of three years' experience in landscape contracting or the completion of a study or combination of study and experience in landscape contracting equivalent to three years' experience under a landscape contractor. Each application for an initial certificate shall be accompanied by an application fee of twenty dollars ($20.00).

(b) Any person who files such application to the board in proper manner to be registered and titled as a landscape contractor shall be required to take an oral or written examination to determine his qualifications. The board will compile a manual from which the examination will be prepared.

If the results of the examination shall be satisfactory, the board shall issue to such a person a certificate, authorizing such person to be titled as a landscape contractor in the State of North Carolina, upon payment of privilege taxes now required by law, or that may hereafter be required by law. Anyone failing to pass an examination may be re-examined without payment of additional fee, under such rules as the board may adopt in such cases.

(c) All certificates granted and issued by the board under the provisions of this Chapter shall expire annually on December 31. Renewal of such certificates may be effected at any time during the month preceding the expiration date of such certificates upon proper application to the board accompanied by the payment to the secretary-treasurer of the board of a renewal fee, as set by the board, of not more than fifty dollars ($50.00). The fee for an initial certificate shall be the same as for a renewal certificate and is in addition to the application fee. All certificates reinstated after expiration date thereof shall be subject to a late filing fee of ten dollars ($10.00). In the event a registrant fails to obtain a reinstatement of such certificate within 12 months from the date of expiration thereof, the board may, in its discretion, consider such registrant subject to the provisions of this Chapter relating to the issuance of an original certificate. Duplicate certificates may be issued by the board upon payment of a fee of one dollar ($1.00) by the registrant.

Sec. 6. (a) The secretary-treasurer of the board shall keep a register of all applicants for certificates of title. The register shall include the date of application, name, place of business, place of residence, and indicate whether the certificate of title was granted or refused.

(b) The secretary-treasurer of the board shall also keep a current roster showing the names and places of business of all registered titled landscape contractors. The roster shall be kept on file in the office of the board and be open to public inspection.

(c) On or before the first day of September of each year, the board shall file with the Secretary of State a copy of the roster of landscape contractors holding certificates of title. At the same time the board shall file with the Secretary of State a report containing a complete statement of receipts and disbursements of the board for the preceding fiscal year ending June 30th. Such statement shall be attested by the secretary-treasurer of the board.

Sec. 7. (a) The board shall have power to revoke or suspend certificates of title herein provided. The board may upon its own motion or upon a verified complaint in writing hold a hearing as hereinafter provided to investigate the actions of any titled landscape contractor. The board shall have the power to suspend or revoke any certificate of title issued under the provisions of this Chapter if the registrant has by false or fraudulent representations obtained a

certificate; if the registrant has been convicted or has entered a plea of nolo contendere to any crime involving moral turpitude in any court, State or federal; if the registrant is found to have committed any act which constitutes improper, fraudulent or dishonest dealing; or if the registrant violates any rule or regulation duly promulgated by the board.

(b) In all proceedings under this section for the revocation, denial or suspension of certificates, the provisions of Chapter 150 or Chapter 150A, of the General Statutes, whichever is in effect, shall be applicable.

Sec. 8. An applicant from another state which offers registration privileges to residents of North Carolina may be registered by conforming to all the provisions of this Chapter and, in the discretion of the board, such other terms and conditions as are required of North Carolina residents applying for a certificate in such other state. The board may exempt from the examination prescribed in this Chapter a landscape contractor duly registered in another state if a similar exemption is extended to registered landscape contractors from North Carolina.

Sec. 9. If any section, subsection, sentence or clause of this act is for any reason held to be unconstitutional, such holding or decision shall not affect any other portion of the act, it being declared the legislative intent that this act would have been enacted notwithstanding such invalid portion.

Sec. 10. Before July 1, 1976, any person, partnership, corporation or other legal entity submitting an application, application fee and evidence satisfactory to the board that he has actively engaged in the practice of landscape contracting for one year prior to July 1, 1976, shall be issued a certificate of title without the requirement of examination.

Sec. 11. The board shall have authority to petition for, and the superior courts of the State shall have authority to issue, temporary restraining orders, and preliminary and permanent injunctions for violations of this act.

Sec. 12. This act shall become effective on December 1, 1975.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. B. 750 CHAPTER 742

AN ACT TO ESTABLISH A COMMISSION OF YOUTH SERVICES WITHIN THE DEPARTMENT OF HUMAN RESOURCES.

The General Assembly of North Carolina enacts:

Section 1. General Statutes Chapter 134 is rewritten to read as follows:

"CHAPTER 134.

"Youth Services.

"ARTICLE I.

"Commission on Youth Services in Department of Human Resources.

"§ 134-1. *Legislative intent and purpose.*—The General Assembly hereby declares its intent and legislative policy to separate the administration of training schools for committed delinquents from the adult corrections system to avoid the stigma and punitive philosophy associated with penal facilities for convicted adult offenders. It is further intended that institutional programs for delinquents provide appropriate treatment and care according to the needs of the children in care and that such programs be appropriately coordinated with other services for children within the Department of Human Resources.

"§ 134-2. *Definitions.*—The following terms or phrases shall be defined as follows in this Chapter unless the context or subject matter otherwise requires:

(1) 'Child' is any person who has not reached his 16th birthday.

(2) 'Delinquent child' includes any child subject to the juvenile jurisdiction of the district court as defined by G.S. 7A-278(2) who is subject to commitment to an institution for delinquents under G.S. 7A-286.

(3) 'Department' means the Department of Human Resources as defined under General Statutes Chapter 143B, the Executive Organization Act of 1973.

(4) 'Secretary' means the Secretary of Human Resources established by G.S. 143B-139.

(5) 'Commission' means the Commission of Youth Services established by this Chapter.

(6) 'Director' means the Director of Youth Services established by this Chapter.

(7) 'Institution' means a school, training school or institution for committed delinquents heretofore operated by the Division of Youth Development of the Department of Correction, namely the following: Stonewall Jackson School; Samarkand Manor School; Dobb's School for Girls; Richard T. Fountain School; Cameron Morrison School; C. A. Dillon School; Juvenile Evaluation Center.

(8) 'Youth services program' means any type of residential or nonresidential program or service for youth that may be developed by the commission as authorized by this Chapter.

(9) 'Juvenile detention' refers to detention of a child alleged to be undisciplined or delinquent before or after a juvenile hearing as authorized by G.S. 7A-286(3).

(10) 'County detention home' means one of the existing county-supported detention homes for juveniles or one which may be established by a county or other unit of local government in the future.

(11) 'Regional detention home' means a State-supported and administered regional facility providing detention care as recommended by the report.

(12) 'Report' means the Report of the National Juvenile Detention Association entitled *Juvenile Detention in North Carolina: A Study Report*, released in January 1973.

(13) 'Holdover facility' means a place in a local jail approved by the Department of Human Resources for detention of a child for not more that five calendar days prior to placement in an approved detention home.

"§ 134-3. *Commission of Youth Services created.*—There is hereby created the Commission of Youth Services within the Department of Human Resources to be responsible for administration of institutions for committed delinquent children and to work with other appropriate units of the department to develop and utilize community-based services for committed delinquents where appropriate and feasible.

"§ 134-4. *Composition and appointment of commission.*—The commission shall consist of nine members to be appointed as follows: The Governor shall appoint five members; the President of the Senate shall appoint two members; the Speaker of the House shall appoint two members.

The Governor shall appoint three members for two years, two for four years; the President of the Senate shall appoint one member for four years, one for six years; the Speaker of the House shall appoint one member for four years, one for

six years. Such appointments shall be made by the Governor, the President of the Senate and the Speaker of the House within 15 days after the ratification of this act. The subsequent appointments shall be for terms to commence on July 1 of the year in which appointed, and each member shall serve until his successor is appointed. Thereafter, all appointments shall be for a term of six years. Any appointment to fill a vacancy shall be made by the original appointing authority for the balance of the unexpired term.

In addition to the nine members to be appointed as outlined above, there shall be two members ex officio who shall not have voting powers. The Director of the Administrative Office of the Courts and the Superintendent of Public Instruction (or their designees) shall serve as ex officio members.

The Governor shall have the power to remove any member of the commission from office for misfeasance, malfeasance or nonfeasance in accordance with the provisions of G.S. 143B-13.

Members of the commission shall receive per diem, travel and subsistence allowances in accordance with G.S. 138-5. Members who serve in the General Assembly shall be reimbursed as for other legislative duties.

"§ 134-5. *Organization and meetings of commission.*—The commission shall have a chairman who shall be appointed by the Governor from the members appointed by the Governor and who shall serve as chairman for his term. There shall be a vice-chairman who shall be elected by the commission from its members and who shall serve for a term of two years or until the expiration of his term.

The commission shall meet quarterly and may hold special meetings at any time and place within the State on call of the chairman or upon written request of a majority of the members.

A majority of the commission shall constitute a quorum for a meeting.

"§ 134-6. *Transfer of institutions.*—All institutions previously operated by the Division of Youth Development of the Department of Correction and the present central office of said Division of Youth Development (including land, buildings, equipment, supplies, personnel, or other properties rented or controlled for youth development purposes) are hereby transferred to the Department of Human Resources which shall administer such institutions and programs as provided by this Chapter.

"§ 134-7. *Powers and duties of commission.*—The commission shall be a policy-making body within the Department with responsibility for approval of policies and procedures as may be proposed by staff which will provide institutional programs to meet the needs of the children in care and to develop other youth services programs as may be needed. The commission shall have the following powers and duties:

(1) To study the available literature and research findings concerning juvenile delinquency, its causes, and various treatment models so as to be in a position to approve such programs as may be proposed by staff which will provide effective treatment and rehabilitation for children in institutions;

(2) To encourage the development of community-based alternatives to institutions, both residential and nonresidential, by working with other appropriate units of the department and by approval of plans to purchase services in such programs or by operation of such youth services programs or community-based programs as may be approved;

(3) To make rules, regulations and policies to achieve the following objectives:

(a) to develop a sound admission or intake program to institutions, including the requirement of a careful evaluation of the needs of each child prior to acceptance and assignment of any child committed to the department to any institution or other program of the department or licensed by the department which is appropriate to the needs of the child including but not limited to the following: mental instutions or residential program for the retarded; foster home or child care institution; public or private mental health resource or institution.

(b) provide quality educational programs in institutions, including vocational training which is realistic in relation to available jobs;

(c) to provide for staff training and development;

(d) to provide for periodic evaluation of institutional programs;

(e) to secure outside resources to supplement institutional programs, including but not limited to making contracts for services with public schools, community colleges, technical institutes, mental health resources, vocational rehabilitation, Administrative Office of the Courts, community-based services, and others as may be appropriate, including the right to make cooperative agreements with other public or private agencies that involve joint planning, funding and evaluation.

(f) to provide for and protect the confidentiality of records of children committed to the department.

(4) To authorize the transfer of funds appropriated for institutional programs to purchase care or services for committed delinquents in community-based services or other appropriate services as institutional populations decrease;

(5) To close an institution when its operation is no longer justified, provided such action is approved by the Advisory Budget Commission;

(6) To approve personnel policies which result in recruitment, employment and training of personnel who are appropriate to work with children;

(7) To approve management and accounting systems which deliver the appropriate services to children in institutions, including management practices which provide for identification of quantifiable goals at all levels of management in order that each institution or service be operated in an efficient, effective and sound manner;

(8) To adopt such rules and regulations as may be required by the federal government to secure federal funds or grants-in-aid to support youth services programs, provided such rules and regulations conform to State law.

In order to provide for an orderly transition of the institutions from the Department of Correction to the department, such rules and regulations and procedures as may have been developed by the Department of Correction for the operation of the institutions shall continue in full force and effect until modified or superseded by action of the commission.

The policies, rules and regulations and other authorized actions of the commission shall be enforced and implemented by the Department of Human Resources.

"ARTICLE II.

"Director of Youth Services.

"§ 134-10. *Appointment.*—The commission shall recommend a person to the secretary for appointment as director who shall be qualified by reason of

education, training and experience to administer institutional programs and other youth services programs.

The secretary, with the approval of the commission, shall appoint the director who shall be responsible for administration of the institutions and other youth services programs according to the policies and procedures of the commission under the administrative supervision of the secretary.

The position of director shall be full-time, and the director shall hold no other office, except that the director shall serve as secretary to the commission.

"§ 134-11. *Term.*—The director shall serve at the pleasure of the secretary, except that the director may not be removed from office unless a majority of the members of the commission shall vote to recommend such action to the secretary.

"§ 134-12. *Powers and duties of director.*—The director shall have the following powers and duties:

(1) To supervise administration of the institutions according to the policies, rules and regulations of the Commission;

(2) To appoint or remove the head of each institution or youth services program according to personnel policies of the commission and other laws relative to State personnel;

(3) To appoint such staff for the central office as may be necessary for effective administration of the program;

(4) To provide information about delinquency, research studies, evaluation reports and other appropriate information to inform the commission about current developments in the field;

(5) To propose policies, programs and rules and regulations to the commission for its approval as provided by this Chapter.

"§ 134-13. *Administrative head of each institution.*—The director shall appoint an administrative head for each institution or youth services program, who shall be responsible for appointment of subordinate personnel in said institution or youth services program in consultation with the director. The administrative head of each institution or youth services program may discharge any employee for incompetence or other valid reasons according to State personnel policies and with the approval of the director.

"§ 134-14. *Bonds for administration heads, budget officers.*—All administrative heads of institutions or youth services programs and every budget officer shall make a good and sufficient bond payable to the State of North Carolina before beginning their duties in such form and amount as may be specified by the Governor and approved by the State Treasurer. The bonds herein provided for shall be made a part of the blanket bond of State officers and employees provided for in G.S. 128-8.

"ARTICLE III.

"Commitment and Care.

"§ 134-18. *Commitment.*—The department shall accept all children who have been committed for delinquency under G.S. 7A-286, provided the director or his staff finds that the statutory criteria specified in G.S. 7A-286(5) have been complied with. A court order of commitment accompanied by other appropriate social, medical, psychological or other appropriate information as may be specified by the rules and regulations of the commission shall be forwarded to the department which shall determine which institution or youth services program would best provide for the needs of the child so committed and advise

the committing court. The department shall have the authority to assign a child committed for delinquency as herein provided to any institution or other program of the department or licensed by the department which is appropriate to the needs of the child under rules and regulations of the commission.

"§ 134-19. *Responsibility of committing court.*—After study of the commitment order and accompanying information concerning the needs of the child, the department shall notify the committing court which institution or other youth services program is appropriate according to the needs of the child. The committing court shall deliver the child to the place designated by the department and shall pay all transportation expenses. If the delinquent committed to the department is a female, she must be accompanied by a female approved by the committing court to the institution or other place designated by the department.

"§ 134-20. *Program.*—The department, under the guidance of the commission, shall provide such programs in its institutions or other youth services programs as will implement the right of any committed child to appropriate treatment according to his needs including but not limited to the following programs or services: educational; clinical and psychological; psychiatric; social; medical; vocational; recreational; and others as identified as appropriate by the commission.

"§ 134-21. *Authority to provide necessary medical or surgical care.*—The department is authorized to provide such medical and surgical treatment as is necessary to preserve the life and health of students while in care, provided that no surgical operation may be performed except as authorized in G.S. 130-191.

"§ 134-22. *Compensation to children in care.*—Children who have been committed to the department may be compensated for work or participation in training programs at rates approved by the commission within available funds and under rules and regulations adopted by the commission. The department is authorized to accept grants or funds from any source to compensate children as provided under this section.

"§ 134-23. *Legal effect of commitment.*—An adjudication that a child is delinquent as defined by G.S. 7A-278(2) or commitment of a delinquent child to the department shall not disqualify the child for public office nor be considered conviction of any criminal offense nor imprisonment for crime nor cause the child to forfeit any citizenship rights. In the case of any youth whose case was transferred from the district court division to the superior court division for trial as an adult as provided by G.S. 7A-280 and who was convicted of a felony and committed to the Department of Correction, all citizenship rights forfeited as a result of such conviction shall be automatically restored to such youth upon the youth's final discharge under rules and regulations of the Department of Correction, and the Secretary of Correction is authorized to issue a certificate to this effect.

"§ 134-24. *Runaways.*—If a child runs away from the institution or youth services program to which he is assigned, the administrative head of such program shall cause the child to be apprehended and returned. Any employee of the institution or youth services program or of the department or any peace officer may apprehend and return the child without a warrant or court order.

"§ 134-25. *Criminal offense to aid escapes.*—It shall be unlawful for any person to aid, harbor, conceal or assist any child to escape from an institution or

youth services program. Any person who renders said assistance to a child shall be guilty of a misdemeanor.

"§ 134-26. *Visits and community activities.*—The department shall encourage visits by parents and responsible relatives of children in care under rules and regulations of the commission. The department shall also arrange a suitable program of home visits for children in care under rules and regulations of the commission.

"§ 134-27. *Transfer authority of Governor.*—The Governor may order transfer of any person less than 18 years of age from any jail or other penal facility of the State to one of the institutions in appropriate circumstances, provided the Governor shall consult with the department concerning the feasibility of such transfer in terms of available space, staff, and suitability of program.

"ARTICLE IV.

"Pre-release and Release.

"§ 134-30. *Authority to release.*—The department shall have the duty to know about the progress of children in its care and to know when a child is ready for release. The department may release any child at any time after receiving the child in care based on the department's evaluation of the needs of the child and the best interests of the State under the rules and regulations of the commission.

"§ 134-31. *Pre-release planning.*—The department shall be responsible for regular evaluation of the progress of each child at least once every six months as long as the child remains in the care of the department. If the department determines that a child is ready for release, the department shall initiate a pre-release planning process with the parents and the committing court. This pre-release planning process shall be defined by rules and regulations of the commission, but the process shall include the following:

(1) Written notice to the committing court and the parents that the child is ready for release, including an explanation of the reasons and the date of the anticipated release;

(2) A pre-release planning conference involving as many of the appropriate people as possible, including the child, his parents, staff of the committing court (or the staff of the court that will provide after-care supervision), and staff of the institution or program that found the child ready for release;

(3) Planning for an orderly transition from the institution or youth services program to the child's home or the community to which the child is returning, including arrangements for the court counselor to become involved in supervision as soon as the child leaves the institution.

"§ 134-32. *Conditional release and final discharge.*—The department may release a child by conditional release or final discharge. The decision as to which type of release is appropriate shall be made by the department based on the needs of the child and the best interests of the State under rules and regulations governing release which shall be approved by the commission, according to the following guidelines:

(1) Conditional release is appropriate for children needing supervision after leaving the institution; in such case, the conditions of conditional release shall be designed by the department in the pre-release planning process specified in G.S. 134-31 and provided in writing to the child, his parents and the court staff which will provide after-care supervision.

(2) Final discharge is appropriate when the child does not seem to require supervision or is 18 years of age.

"§ 134-33. *Revocation of conditional release.*—If a child who was released on conditional release does not conform to the conditions of said conditional release, the court counselor providing aftercare supervision or the appropriate staff of the department may make a motion for review in the district court in the district where the child has been residing during such aftercare supervision. The district court shall hold a juvenile hearing to determine whether there has been such a violation. If the court determines that the child has violated the terms of his conditional release, the court may revoke such conditional release or make any other disposition authorized by G.S. 7A-286 which the court determines to be in the best interest of the child. If the court revokes the conditional release, the court staff shall make arrangements with the department for the return of the child under rules and regulations approved by the commission.

"ARTICLE V.

"Detention Services.

"§ 134-36. *Legislative intent.*—The General Assembly intends to provide an administrative structure for implementation of the study of detention needs in North Carolina done by the National Juvenile Detention Association entitled *Juvenile Detention in North Carolina: A Study Report*, released in January, 1973. In addition to the authority of the Department under Part 3, Article 3, Chapter 108 and Article 10, Chapter 153A, the department shall be responsible for the development and administration of regional detention homes as recommended in the report and for coordination of regional detention services through existing county detention homes.

"§ 134-37. *Regional detention services.*—The department shall be responsible for juvenile detention services, including the development of a statewide plan for regional juvenile detention services as recommended by said report which will offer juvenile detention care of sufficient quality to meet State standards to any child requiring juvenile detention care within the State in a county detention home or a regional detention home by January 1, 1979, as follows:

(1) The department shall plan with the counties operating a county detention home to provide regional juvenile detention services to surrounding counties as recommended by said report, except that the department shall have some discretion in defining the geographical boundaries of the regions based on negotiations with affected counties, distances, availability of juvenile detention care that meets State standards, and other appropriate variable factors.

(2) The department shall plan for and administer five or more regional detention homes as recommended in said report, including careful planning on location, architectural design, construction, and administration of a program to meet the needs of children in juvenile detention care. Both the physical facility and the program of a regional detention home shall comply with State standards.

"§ 134-38. *State subsidy to county detention homes.*—The department shall develop a State subsidy program to pay a county detention home which provides regional juvenile detention services and meets State standards a certain portion of its operating costs and its per capita daily cost per child for any child cared for from another county as recommended in said report. In general, this subsidy should be fifty percent (50%) of the operating costs of a county detention home

and one hundred percent (100%) of the per capita daily cost of caring for a child from another county; any county placing a child in the county detention home of another county providing regional juvenile detention services or a regional detention home should pay fifty percent (50%) of the per capita daily cost of caring for the child to the department. The exact funding formulas may be varied by the department to operate within existing State appropriations or other funds that may be available to pay for juvenile detention care.

"§ 134-39. *Authority for implementation.*—In order to allow for effective implementation of a statewide regional approach to juvenile detention, the department shall have legal authority to do the following:

(1) To develop rules and regulations which may be necessary to fulfill its responsibilities under this Article, which shall be effective when approved by the commission;

(2) To plan with counties operating county detention homes to provide regional services and to upgrade physical facilities as recommended in said report, to contract with counties for services and care, and to pay State subsidies to counties providing regional juvenile detention services that meet State standards;

(3) To develop one or more pilot programs to demonstrate quality juvenile detention care on a regional basis that meet State standards;

(4) To develop a plan whereby law-enforcement officers or other appropriate employees of local government shall be reimbursed by the State for the costs of transportation of a child to and from any juvenile detention facility;

(5) To seek funding for juvenile detention services from federal sources, and to accept gifts of funds from public or private sources; and

(6) To transfer State funds appropriated for institutions or other youth services programs to develop a pilot program of juvenile detention care, to purchase detention care in a county detention home which meets State standards, and to operate a regional detention home."

Sec. 2. G.S. 7A-279 is amended by adding the following sentence at the end:

"The court shall also have jurisdiction to conduct a juvenile hearing to determine whether a child under aftercare supervision of a court counselor in the district has violated the terms of the conditional release under which such child was released from an institution or training school or other youth services program by the Department of Human Resources."

Sec. 3. G.S. 7A-285 is amended by adding the following sentence at the end:

"In any juvenile hearing dealing with the revocation of conditional release, the court shall protect the due process rights of the child which shall include the same rights guaranteed in adjudication of delinquency where the child could lose his freedom."

Sec. 4. The second sentence of G.S. 150A-1, as it presently appears in the 1974 Supplement to Volume 3C of the General Statutes of North Carolina, is hereby amended to read as follows:

"The following are specifically exempted from the provisions of this Chapter: The Employment Security Commission, the Industrial Commission; the Occupational Safety and Health Review Board; the Commission of Youth Services; and the Utilities Commission."

Sec. 5. The Commission of Youth Services shall adopt rules and regulations related to the conduct, supervision, rights and privileges of persons in its custody or under its supervision. Such rules and regulations shall be filed with and published by the office of the Attorney General and shall be made available by the commission for public inspection. The rules and regulations shall include a description of the organization of the commission. A description or copy of all forms and instructions used by the commission, except those relating solely to matters of internal management, shall also be filed with the office of the Attorney General. No rule or regulation shall be held invalid because of failure to file such rule or regulation.

Sec. 6. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 7. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. B. 822 CHAPTER 743

AN ACT TO AMEND G.S. 20-4.01(44) RELATING TO THE DEFINITION OF SPECIAL MOBILE EQUIPMENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-4.01(44) as same appears in the 1974 Cumulative Supplement to Volume 1C of the General Statutes is hereby amended by inserting immediately after the words "truck-tractor," in line 1 thereof and immediately before the word "trailer" appearing in line 1 thereof the words and punctuation "industrial truck,".

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. B. 827 CHAPTER 744

AN ACT TO PROVIDE A PRESIDENTIAL PREFERENCE PRIMARY IN MARCH, TO ENCOURAGE ALL PRESIDENTIAL CANDIDATES TO BE INCLUDED ON THE PRESIDENTIAL PRIMARY BALLOT, AND TO ELIMINATE FILING FEES FOR PRESIDENTIAL CANDIDATES.

The General Assembly of North Carolina enacts:

Section 1. Article 18A of Chapter 163 of the General Statutes of North Carolina is rewritten in its entirety as follows:

"Presidential Preference Primary Act.

"§ 163-213.1. *Short title.*—This Article may be cited as the 'Presidential Preference Primary Act'.

"§ 163-213.2. *Presidential preference primary, date of election.*—Beginning with the fourth Tuesday in March 1976 and every four years thereafter, the voters of this State shall be given an opportunity to express their preference for the person to be the presidential candidate of their political party.

"§ 163-213.3. *Conduct of election.*—The presidential preference primary election shall be conducted and canvassed by the same authority and in the manner provided by law for the conduct and canvassing of the primary election for the office of Governor and all other offices enumerated in G.S. 163-187 and

under the same provisions stipulated in G.S. 163-188. The State Board of Elections shall have authority to promulgate reasonable rules and regulations, not inconsistent with provisions contained herein, pursuant to the administration of this Article.

"§ 163-213.4. *Nomination by State Board of Elections.*—The State Board of Elections shall convene in Raleigh on the Tuesday following the first Monday in February preceding the presidential preference primary election. At the meeting required by this section, the State Board of Elections shall nominate as presidential primary candidates all candidates affiliated with a political party, recognized pursuant to the provisions of Article 9 of Chapter 163 of the General Statutes, who have become eligible to receive payments from the Presidential Primary Matching Payment Account, as provided in Section 9033 of the U.S. Internal Revenue Code of 1954, as amended. Immediately upon completion of these requirements, the board shall release to the news media all such nominees selected. Provided, however, nothing shall prohibit the partial selection of nominees prior to the meeting required by this section, if all provisions herein have been complied with.

"§ 163-213.5. *Nomination by petition.*—Any person seeking the endorsement by the national political party for the office of President of the United States, or any group organized in this State on behalf of, and with the consent of, such person, may file with the State Board of Elections petitions signed by 10,000 persons who, at the time they signed are registered and qualified voters in this State and are affiliated, by such registration, with the same political party as the candidate for whom the petitions are filed. Such petitions shall be presented to the county board of elections 10 days before the filing deadline and shall be certified promptly by the chairman of the board of elections of the county in which the signatures were obtained and shall be filed by the petitioners with the State Board of Elections no later than 5:00 p.m. on the date the State Board of Elections is required to meet as directed by G.S. 163-213.4.

The petitions must state the name of the candidate for nomination, along with a letter of approval signed by such candidate. Said petitions must also state the name and address of the chairman of any such group organized to circulate petitions authorized under this section. The requirement for signers of such petitions shall be the same as now required under provisions of G.S. 163-96(b)(1) and (2). The requirement of the respective chairmen of county boards of elections shall be the same as now required under the provisions of G.S. 163-96(b)(1) and (2) as they relate to the chairman of the county board of elections.

The group of petitioners shall pay to the chairman of the county board of elections a fee of ten cents (10¢) for each signature he is required to examine under the provisions of this section.

The State Board of Elections shall forthwith determine the sufficiency of petitions filed with it and shall immediately communicate its determination to the chairman of such group organized to circulate petitions. The form and style of petition shall be as prescribed by the State Board of Elections.

"§ 163-213.6. *Notification to candidates.*—The State Board of Elections shall forthwith contact each person who has been nominated by the board or by petition and notify him in writing that, upon his written request, to be filed with the board within 15 days of the notice to him by the board, his name will be printed as a candidate of a specified political party on the North Carolina

presidential preference primary ballot. A candidate who participates in the North Carolina presidential preference primary of a particular party shall have his name placed on the general election ballot only as a nominee of that political party. The board shall send a copy of the 'Presidential Preference Primary Act' to each candidate with the notice specified above.

"§ 163-213.7. *Voting in presidential preference primary; ballots.*—The names of all candidates in the presidential preference primary shall appear at an appropriate place on the ballot or voting machine. In addition the State Board of Elections shall provide a category on the ballot or voting machine allowing voters in each political party to vote an 'uncommitted' or 'no preference' status. The voter shall be able to cast his ballot for one of the presidential candidates of a political party or for an 'uncommitted' or 'no preference' status, but shall not be permitted to vote for candidates or 'uncommitted' status of a political party different from his registration. Persons registered as 'Independents' or 'No Party' shall not participate in the presidential preference primary except upon changing such affiliation in accordance with law.

"§ 163-213.8. *Political parties and delegates bound by results of primary on first ballot.*—Upon completion and certification of the primary results by the State Board of Elections, the Secretary of State shall certify the results to the State chairman of each political party.

Each political party and its delegates from North Carolina shall be bound on the first ballot at the national convention by the results of the primary. Each political party at the State level shall adopt rules for the allocation of delegate votes on the first ballot which reflect the actual division of votes in the results of the party primary as much as possible, consistent with the national party rules of that political party.

After the vote on the first ballot at a national convention, all responsibility imposed by this Article shall terminate and further balloting shall be consistent with the rules of the political party.

In the event of the death or the withdrawal of a candidate prior to the first ballot, any delegate votes which would otherwise be allocated to him, shall be considered uncommitted.

"§ 163-213.9. *National committee to be notified of provisions under this Article.*—It shall be the responsibility of the State chairman of each political party, qualified under the laws of this State, to notify his party's national committee no later than January 30 of each year in which such presidential preference primary shall be conducted of the provisions contained under this Article."

"§ G.S. 163-214 to G.S. 163-217: Reserved for future codification purposes."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. B. 834 **CHAPTER 745**

AN ACT TO PROHIBIT CLOSE RELATIVES SERVING AS PRECINCT OFFICIALS IN THE SAME PRECINCT.

The General Assembly of North Carolina enacts:

Section 1. Article 5 of Chapter 163 of the General Statutes (Volume 3D, Cumulative Supplement 1974) is amended by adding a new section to be numbered and to read as follows:

"§ 163-41.1. *Certain relatives prohibited from serving together.*—(a) The following categories of relatives are prohibited from serving as precinct officials of the same precinct: spouse, child, spouse of a child, sister or brother.

(b) Temporary prohibition. No precinct official who is the wife, husband, son or daughter of any candidate for nomination or election may serve as precinct official during any primary or election in which such candidate participates. The county board of elections shall temporarily disqualify any such official for the specific primary or election involved and shall have authority to appoint a substitute official, from the same political party, to serve only during the primary or election at which such conflict exists."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. B. 852 **CHAPTER 746**

AN ACT TO AMEND SECTIONS OF THE MACHINERY ACT RELATIVE TO VALUATION OF FARM LAND AT ITS PRESENT USE VALUE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-277.2 is hereby rewritten as follows:

"§ 105-277.2. *Agricultural, horticultural and forest land; definitions.*—For the purposes of G.S. 105-277.3 through 105-277.7 the following definitions shall apply:

(1) 'Agricultural land' means land and improvements thereon constituting a farm tract actively engaged in the commercial production or growing of crops, plants or animals under a sound management program. (This definition includes woodland and wasteland which are a part of a farm tract.)

(2) 'Forest land' means land and improvements thereon constituting a forest tract actively engaged in the commercial growing of trees under a sound management program.

(3) 'Horticultural land' means land and improvements thereon constituting a horticultural tract actively engaged in the commercial production or growing of fruits, vegetables, nursery or floral products under a sound management program.

(4) 'Individually owned' means owned by:

(a) A natural person or persons or

(b) A corporation having as its principal business one of the activities described in subdivisions (1), (2) and (3), above, the real owners of all of the shares of such corporation being natural persons actively engaged in such activities, or the spouse, siblings or parents of such persons.

(5) 'Present use value' means the price estimated in terms of money at which the property would change hands between a willing and financially able buyer

and a willing seller, neither being under any compulsion to buy or to sell, assuming that both of them have reasonable knowledge of the capability of the property to produce income in its present use and that the present use of the property is its highest and best use.

(6) 'Sound management program' means a program of production designed to obtain the greatest net return from the land consistent with its conservation and long-term improvement."

Sec. 2. G.S. 105-277.3(b) is hereby rewritten to read as follows:

"(b) In order to come within a classification described in subdivision (a)(1), (2) or (3), above, the property must, if owned by natural persons, also:

(1) Be the owner's place of residence; or

(2) Have been owned by the present owner or by the owner's spouse, siblings, or parents for the four years immediately preceding January 1 of the year for which the benefit of this section is claimed.

If owned by a corporation, the property must have been owned by the corporation or by one or more of its principal shareholders as defined in G.S. 105-277.2(4)(b) for the four years immediately preceding January 1 of the year for which the benefit of this section is claimed. Notwithstanding the provisions of G.S. 105-277.2(4)(b), above, a corporation qualifying for a classification described in G.S. 105-277.3 shall not lose the benefit of the classification by reason of the death of one of the principal shareholders provided the decedent's ownership passes to and remains in the surviving spouse or children."

Sec. 3. G.S. 105-277.4(a) is hereby rewritten to read as follows:

"(a) Property coming within one of the classes defined in G.S. 105-277.3 but having a greater value for other uses shall be eligible for taxation on the basis of the value of the property in its present use if a timely and proper application is filed with the tax supervisor of the county in which the property is located. The application shall clearly show that the property comes within one of the classes and shall also contain any other relevant information required by the tax supervisor to properly appraise the property at its present use value. In nonrevaluation years, the applications shall be filed during the regular or extended listing period, unless there is a change in the true value in money appraisal of a given property under G.S. 105-287. In such cases, the application may be filed within 30 days of the mailing of the notice of the new valuation. Unless a change in the use value appraisal is required because of a change in use, acreage or ownership of a qualifying property, no additional application shall be required until the county's next general reappraisal under G.S. 105-286, at which time new applications shall be filed for all properties."

Sec. 4. G.S. 105-277.4(b) is hereby rewritten to read as follows:

"(b) Upon receipt of a properly executed application, the tax supervisor shall appraise the property at its present use value as established in the schedule prepared pursuant to G.S. 105-277.6(c). In appraising the property at its present use value, the tax supervisor shall appraise the improvements located on qualifying land according to the schedules and standards used in appraising other similar improvements in the county. If all or any part of a qualifying tract of land is located within the limits of an incorporated city or town, the tax supervisor shall furnish a copy of the property record showing both the present use appraisal and the valuation upon which the property would have been taxed in the absence of this classification to the collector of the city or town. He shall

also notify the tax collector of any changes in the appraisals or in the eligibility of the property for the benefit of this classification."

Sec. 5. G.S. 105-277.4(c) is hereby rewritten to read as follows:

"(c) Decisions of the tax supervisor regarding the qualification or appraisal of property under this section may be appealed to the county board of equalization and review or, if that board is not in session, to the board of county commissioners. Decisions of the county board may be appealed to the Property Tax Commission as provided in G.S. 105-324."

Sec. 6. G.S. 105-277.4 is further amended by adding a new subsection (d) thereto to read as follows:

"(d) Property meeting the conditions herein set forth shall be taxed on the basis of the value of the property for its present use. The difference between the taxes due on the present use basis and the taxes which would have been payable in the absence of this classification, together with any interest, penalties or costs that may accrue thereon, shall be a lien on the real property of the taxpayer as provided in G.S. 105-355(a). The difference in taxes shall be carried forward in the records of the taxing unit or units as deferred taxes, but shall not be payable, unless and until (i) the owner conveys the property to anyone other than a spouse, child or sibling of the owner, or (ii) ownership of the property passes to anyone other than such an enumerated family member by will or intestacy, or (iii) ownership of the property passes to a corporation as defined in G.S. 105-277.2(4)(b) from anyone other than its principal shareholders or from such a corporation to anyone other than its principal shareholders, or (iv) the property loses its eligibility for the benefit of this classification for some other reason. The tax for the fiscal year that opens in the calendar year in which a disqualification occurs shall be computed as if the property had not been classified for that year, and taxes for the preceding three fiscal years which have been deferred as provided herein, shall immediately be payable, together with interest thereon as provided in G.S. 105-360 for unpaid taxes which shall accrue on the deferred taxes due herein as if they had been payable on the dates on which they originally became due. If only a part of a qualifying tract of land loses its eligibility, a determination shall be made of the amount of deferred taxes applicable to that part and that amount shall become payable with interest as provided above."

Sec. 7. Chapter 62 of the Session Laws of 1975 is hereby amended by changing the statutory citation from G.S. 105-277.4(c) to G.S. 105-277.4(d).

Sec. 8. G.S. 105-277.5 is hereby rewritten to read as follows:

"§ 105-277.5. *Agricultural, horticultural and forest land; notice of change in use.*—Not later than the close of the listing period following a change which would disqualify all or a part of a tract of land receiving the benefit of this classification, the property owner shall furnish the tax supervisor with complete information regarding such change. Any property owner who fails to notify the tax supervisor of changes as aforesaid regarding land receiving the benefit of this classification shall be subject to a penalty of ten percent (10%) of the total amount of the deferred taxes and interest thereon for each listing period for which the failure to report continues."

Sec. 9. G.S. 105-277.6(a) is hereby amended by deleting the last sentence thereof.

Sec. 10. G.S. 105-277.6(c) is hereby rewritten to read as follows:

"(c) To insure uniform appraisal of the classes of property herein defined in each county, the tax supervisor, at the time of the general reappraisal of all real property as required by G.S. 105-286, shall also prepare a schedule of land values, standards and rules which, when properly applied, will result in the appraisal of the property at its present use value. Such schedule, standards and rules shall be used by the tax supervisor to appraise property receiving the benefit of this classification until the next general revaluation of real property in the county as required by G.S. 105-286. For the year 1976, the tax supervisor of each county shall prepare a new present use value schedule as herein described and shall use such schedule to appraise property receiving the benefit of this classification until that county's next general revaluation. The schedule of values, standards and rules shall be subject to all of the conditions set forth in G.S. 105-317(c), (c)(1) and (c)(2) relating to the adoption of schedules, standards and rules in revaluation years."

Sec. 11. G.S. 105-277.7 is hereby rewritten to read as follows:

"§ 105-277.7. *Agricultural, horticultural and forest land; Department of Revenue assistance.*—To insure reasonable uniformity among the counties of the State in making appraisals as prescribed herein, the Department of Revenue shall prepare rules, regulations and standards to assist the tax supervisor in administering the provisions of this section."

Sec. 12. G.S. 105-324(a) is hereby rewritten to read as follows:

"(a) The provisions of this section shall govern appeals from listing and valuation decisions of boards of equalization and review and boards of county commissioners made under the provisions of G.S. 105-286, G.S. 105-287, G.S. 105-322, G.S. 105-325, G.S. 105-312 and G.S. 105-277.4."

Sec. 13. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 14. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. B. 915 CHAPTER 747

AN ACT TO REGULATE INDIVIDUALS AND ORGANIZATIONS ENGAGED IN CHARITABLE PUBLIC SOLICITATIONS.

The General Assembly of North Carolina enacts:

Section 1. Part 1 of Article 3 of Chapter 108 of the General Statutes is hereby rewritten as follows:

"ARTICLE 3.

"Inspection and Licensing Authority.

"Part 1. Licensing of Public Solicitation.

"§ 108-75.1. *Short title.*—This act shall be known and may be cited as the 'Solicitation of Charitable Funds Act.'

"§ 108-75.2. *Purpose.*—It is the purpose of this Part to protect the general public and public charity in the State of North Carolina; to require full public disclosure of facts relating to persons and organizations who solicit funds from the public for charitable purposes, the purposes for which such funds are

solicited, and their actual uses; and to prevent deceptive and dishonest statements and conduct in the solicitations of funds for or in the name of charity.

"§ 108-75.3. *Definitions.*—Unless a different meaning is required by the context, the following terms as used in this Part shall have the meanings hereinafter respectively ascribed to them:

(a) 'Charitable organization' shall mean any person which is or holds itself out to be organized or operated for any charitable purpose or any person which solicits or obtains contributions solicited from the public for charitable purposes after the effective date of this Part. A chapter, branch, area, office or similiar affiliate or any person soliciting contributions within the State for a charitable organization which has its principal place of business outside the State shall be a charitable organization for the purposes of this Part.

(b) 'Charitable purpose' shall mean any charitable, benevolent, religious, philanthropic, environmental, public or social advocacy or eleemosynary purpose for religion, health, education, social welfare, art and humanities, civic and public interest.

(c) 'Commission' shall mean the North Carolina Social Services Commission.

(d) 'Committee' shall mean the Committee on Charitable Organizations.

(e) 'Contribution' shall mean any promise, gift, bequest, devise or other grant for consideration or otherwise, of any money or property of any kind or value, including the promise to pay, which contribution is wholly or partly induced by a solicitation. The term 'contribution' shall not include payments by members of an organization for membership fees, dues, fines or assessments, or for services rendered to individual members, if membership in such organization confers a bona fide right, privilege, professional standing, honor or other direct benefit, other than the right to vote, elect officers, or hold offices; nor any money, credit, financial assistance or property received from any governmental authority; nor any donation of blood or any gift made pursuant to the Uniform Anatomical Gift Act. Reference to dollar amounts of 'contributions' or 'solicitations' in this Part means, in the case of payments or promises to pay for merchandise or rights of any description, the value of the total amount paid or promised to be paid for such merchandise or rights, and not merely that portion of the purchase price to be applied to a charitable purpose.

(f) 'Compensation' shall mean salaries, wages, fees, commissions, or any other remuneration or valuable consideration.

(g) The words 'corporation', 'association' and 'institution' shall mean any aggregation of individuals, whether two or more, working for a common purpose in their community or their State in the interest of religious societies, fraternal organizations, local councils of boy and girl organizations, and clubs, hospitals, Community Chest, Red Cross and all other charitable enterprises.

(h) 'Department' shall mean the North Carolina Department of Human Resources.

(i) 'Direct gift' shall mean and include an outright contribution of food, clothing, money, credit, property, financial assistance or other thing of value to be used for a charitable or religious purpose and for which the donor receives no consideration or thing of value in return.

(j) 'Federated fund-raising organization' shall mean a federation of independent charitable organizations which have voluntarily joined together, including but not limited to a United Fund, United Way or Community Chest,

for purposes of raising and distributing money for and among themselves and where membership does not confer operating authority and control of the individual agencies upon the federated group organization.

(k) 'Fund-raising expenses' shall mean the expenses of all activities that constitute or are an integral and inseparable part of a solicitation.

(l) 'Membership' shall mean a status applied upon condition of the payment of fees, dues, assessments, etc., in an organization which provides services and confers a bona fide right, privilege, professional standing, honor or other direct benefit, in addition to the right to vote, elect officers, or hold offices. The term 'membership' shall not include those persons who are granted a membership upon making a contribution as the result of solicitation.

(m) 'Parent organization' shall mean that part of a charitable organization which coordinates, supervises or exercises control over policy, fund raising, and expenditures, or assists or advises one or more chapters, branches or affiliates in the State.

(n) 'Person' shall mean any individual, organization, trust, foundation, group, association, partnership, corporation, society, or any other group or combination acting as a unit. This definition shall not be deemed to include any authorized individual who solicits solely on behalf of a licensed or exempt charitable organization.

(o) 'Professional fund-raising counsel' shall mean any person who for a flat fixed fee under a written agreement plans, conducts, manages, carries on, advises or acts as a consultant, whether directly or indirectly, in connection with soliciting contributions for, or on behalf of any charitable organization but who actually solicits no contributions as a part of such services. A bona fide salaried officer or employee of a charitable organization maintaining a permanent establishment within the State, or the bona fide salaried officer or employee of a parent organization certified as tax exempt shall not be deemed to be a professional fund-raising counsel.

(p) 'Professional solicitor' shall mean any person who, for a financial or other consideration, solicits contributions for or on behalf of a charitable organization, whether such solicitation is performed personally or through its agents, servants or employees specially employed by or for a charitable organization, who are engaged in the solicitation of contributions under the direction of such person; or a person who plans, conducts, manages, carries on, advises or acts as a consultant, whether directly or indirectly, to a charitable organization in connection with the solicitation of contributions but does not qualify as 'professional fund-raising counsel' within the meaning of this Part. A bona fide full-time salaried officer or employee of a charitable organization maintaining a permanent establishment within the State or the bona fide salaried officer or employee of a parent organization certified as tax exempt shall not be deemed to be a professional solicitor.

No attorney, investment counselor or banker, who advises any person to make a contribution to a charitable organization, shall be deemed, as the result of such advice, to be a professional fund-raising counsel or a professional solicitor.

(q) 'Religious purposes' shall mean maintaining or propagating religion or supporting public religious services, according to the rites of a particular denomination.

(r) 'Sale and benefit affair' shall mean and include, but not be limited to, athletic or sports event, bazaar, benefit, campaign, circus, contest, dance, drive,

entertainment, exhibition, exposition, party, performance, picnic, sale, social gathering, theater, or variety show which the public is requested to patronize or attend or to which the public is requested to make a contribution for any charitable or religious purpose connected therewith.

(s) The words 'sale', 'sell' and 'sold' shall mean the transfer of any property or the rendition of any service to any person in exchange for consideration, including any purported contribution without which such property would not have been transferred or such services would not have been rendered.

(t) 'Secretary' shall mean the Secretary of the North Carolina Department of Human Resources.

(u) 'Secular' shall mean relating to the affairs of the present world, including but not limited to providing food, clothing, counseling, education, disaster relief, medical assistance, training and shelter.

(v) The words 'solicit' and 'solicitation' shall mean the request or appeal, directly or indirectly, for any contribution on the plea or representation that such contribution will be used for a charitable purpose, including without limitation, the following methods of requesting such contribution:

(1) Any oral or written request;

(2) Any announcement to the press, over the radio or television or by telephone or telegraph concerning an appeal or campaign to which the public is requested to make a contribution for any charitable purpose connected therewith;

(3) The distribution, circulation, posting or publishing of any handbill, written advertisement or other publication which directly or by implication seeks to obtain public support;

(4) The sale of, offer or attempt to sell, any advertisement, advertising space, subscription, ticket, or any service or tangible item in connection with which any appeal is made for any charitable purpose; or where the name of any charitable organization is used or referred to in any such appeal as an inducement or reason for making any such sale; or when or where in connection with any such sale, any statement is made that the whole or any part of the proceeds from any such sale will be donated to any charitable purpose.

Solicitation as defined herein, shall be deemed to occur when the request is made, at the place the request is received, whether or not the person making the same actually receives any contribution.

"§ 108-75.4. *Authority to license.*—(a) The department is hereby authorized and directed to issue licenses to charitable organizations, professional fund-raising counsel and professional solicitors for soliciting in accordance with the provisions of this Part and the standards, rules and regulations promulgated by the commission under the authority of this Part and under the authority of G.S. 143B-153.

(b) Each license shall be valid throughout the State for a period of one year or less from the date of issue and may be renewed for additional one-year periods or less upon written application to the department under oath or affirmation in the form prescribed by the commission and the payment of the fee prescribed herein.

"§ 108-75.5. *Committee on Charitable Organizations; creation; members; terms; selection; powers and duties; hearings; removal; compensation.*—(a) There is hereby created a Committee on Charitable Organizations which shall

consist of the secretary and seven citizens of the State, none of whom shall be a State employee, and who shall be appointed by the Governor. Four appointees shall be representative of the public solicited and the various categories of charitable persons for whom solicitations are made, and shall be selected from no more than 20 names submitted to the Governor by the following organizations:

(1) The Managing Heads of the Better Business Bureaus in the State;

(2) The North Carolina Association of C.P.A.'s;

(3) The North Carolina League of Municipalities; and

(4) The North Carolina Bar Association.

Three appointees shall represent licensed charitable organizations, shall be either a full-time staff member or an unpaid volunteer or officer of a licensed charitable organization, and shall be selected from no more than 15 names submitted to the Governor by the following organizations:

(5) The local and State United Way Organizations of North Carolina;

(6) The North Carolina Child Care Association; and

(7) The North Carolina National Health Agencies Committee.

None of these organizations shall nominate more than five names and no more than one nominee shall be selected from the names submitted by any one organization.

(b) The Governor shall designate one citizen member as chairman. Each citizen member shall serve a four-year term, except that the initial appointments of citizen members shall be as follows: three for two years, two for three years, and two for four years. In making the initial appointments for the two-year term, the Governor shall select two members from the names submitted pursuant to G.S. 108-75.5(a)(1) through (4) and one member from the names submitted pursuant to G.S. 108-75.5(a)(5) through (7); the Governor shall select the initial appointees for the three and four-year terms so as to respectively provide for one appointee from the names submitted pursuant to G.S. 108-75.5(a)(1) through (4) and one appointee from the names submitted pursuant to G.S. 108-75.5(a)(5) through (7). At the expiration of their respective terms, citizen members shall be replaced or reappointed in the same manner as provided for in the original appointments for terms of four years. Any vacancy occurring before the expiration of a term shall be filled in the same manner as provided for in the original appointment and the appointee shall serve the balance of the unexpired term.

(c) The committee shall have the power and the duty to recommend to the commission rules, regulations and procedures for the licensing and regulation of charitable organizations, professional fund-raising counsel and professional solicitors. The rules and regulations shall take into consideration the existence of an adequate, responsible and functioning governing board of the charitable organization, professional fund-raising counsel or professional solicitor; its chartered responsibility; its need to conduct public solicitation; the proposed uses of solicited funds; the percentage of solicited funds used for management and fund-raising expenses, fund-raising activities, including but not limited to sale and benefit affairs and program services; the accountability of the charitable organization, professional fund-raising counsel or professional solicitor and disclosure of information and financial reports to the general public; and other matters proper for the protection of the public interest with respect to public solicitation. The committee shall also recommend to the

commission the forms for license application and other forms required by this Part. After due notice, a hearing shall be arranged by the committee with representatives of charitable organizations, professional fund-raising counsel and professional solicitors, and an opportunity for all such to be heard to make effective such recommendations of standards, rules, regulations, forms and procedures by the committee to the commission.

(d) The committee shall meet semiannually and at such other times as called by the chairman of the committee.

(e) The Governor shall have the power to remove any citizen member from the committee for misfeasance, malfeasance or nonfeasance in accordance with G.S. 143B-13.

(f) The citizen members of the committee shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

(g) All clerical and other services required by the committee shall be supplied by the secretary. The committee shall give to the public full information from time to time about its activities and shall publish an annual report analyzing the effectiveness of its recommendations and the activities of persons subject to this Part.

"§ 108-75.6. *Application for licensing.*—(a) Every charitable organization, except as otherwise provided in this Part, which intends to solicit contributions within the State or have funds solicited on its behalf, shall, prior to any solicitation, file an application with the department upon forms prescribed by the commission for a license to solicit. It shall be the duty of the president, chairman, or principal officer of the charitable organization to make such application and file such reports as are required by this Part. Such statements shall contain the following information:

(1) The name of the organization and the purpose for which it was organized.

(2) The principal street address and the mailing address, if different, of the organization, and the addresses of any offices maintained by the organization in this State. If the organization does not maintain an office, the name and address of the person having custody of its financial records within the State.

(3) The names and addresses of any chapters, branches or affiliates in this State and organizations elsewhere that share in contributions raised in this State.

(4) The place where and the date when the organization was legally established, the form of its organization, and a reference to any determination of its tax-exempt status under the Internal Revenue Code. In the initial application it is required that true copies be submitted of either the Articles of Incorporation or Constitution plus all amendments; a proposed program of activities for the applicant's current fiscal year; the bylaws and all approved changes; a copy of the tax-exempt status letter from the Internal Revenue Service including the Letter of Determination Status and the Agreements of Affiliation, if applicable. Future applications require only notice of any changes in or revocations of these documents.

(5) The names, addresses and occupations of the officers, directors, trustees and key personnel. The term 'key personnel' means: Any officers,

employees, or other personnel who are directly in charge of any of the fund-raising activities of the charitable organization; any officers or individuals maintaining custody of the organization's financial records; and any officers or individuals who will have custody of the contributions.

(6) A copy of the balance sheet and income and expense statement audited by an independent certified public accountant for the organization's immediately preceding fiscal year, or a copy of a financial statement audited by an independent certified public accountant covering, in a consolidated report, complete information as to all of the preceding year's fund-raising activities of the charitable organization, showing the balance sheet, kind and amounts of funds raised, costs and expenses incidental thereto, allocation or disbursement of funds raised, changes in fund balances, notes to the audit and the opinion as to the fairness of the presentation by the accountant. This report shall conform to the accounting and reporting procedures set forth in the 'Audit Guides' published by the American Institute of Certified Public Accountants, and as may be modified from time to time by said Institute or its successor: Provided that the commission shall adopt rules and regulations for simplified reporting by organizations that do not raise or receive contributions totalling more than fifteen thousand dollars ($15,000) in gross receipts for said preceding fiscal year.

(7) A statement indicating whether the organization is authorized by any other governmental authority to solicit contributions and whether it, or any officer, professional fund-raising counsel or professional solicitor thereof, is or has ever been enjoined by any court or otherwise prohibited from soliciting contributions in any jurisdiction.

(8) A statement indicating whether the organization intends to solicit contributions from the public directly or have such done on its behalf by others.

(9) The location of the organization's financial records in the State.

(10) Methods by which solicitation will be made, including a statement as to whether such solicitation is to be conducted by voluntary unpaid solicitors, by professional solicitors, or both; and a narrative description of the promotional plan together with copies of all advertising material which has been prepared for public distribution by any means of communication and the location of all telephone solicitation facilities.

(11) The names and addresses of any professional fund-raising counsel and professional solicitors who are acting or who have agreed to act on behalf of the organization together with a statement setting forth the terms of the arrangements for salaries, bonuses, commissions, or other remuneration to be paid the professional fund-raising counsel and professional solicitors.

(12) The period of time during which the solicitations will be made and if less than statewide, the area or areas in which such solicitation will generally take place.

(13) The purposes for which contributions to be solicited will be used, the

total amount of funds proposed to be raised thereby, and the use or disposition to be made of any receipts therefrom.

(14) The name or names under which the organization intends to solicit contributions.

(15) The names of the individuals or officers of the organization who will have final responsibility for the custody of the contributions.

(16) The names of the individuals or officers of the organization responsible for the final distribution of the contributions.

(17) A sample copy of the authorization issued by the organization to individuals soliciting by means of personal contact in its behalf. Each individual solicitor shall receive instructions that said authorization is to be shown at the request of any person, law enforcement officer or agent of the department.

(18) Such other information as may be reasonably required by the commission for the public interest or for the protection of contributors.

(b) If there is any change in fact, policy or procedure that would alter the information given in any license application, the applicant or licensee shall notify the secretary in writing thereof within five days, excluding Saturdays, Sundays and legal holidays after such change.

(c) The secretary or his designee shall examine each initial application of a charitable organization for the right to solicit funds and each renewal application of a charitable organization for the right to solicit funds, and if found to be in conformity with the requirements of this Part and all relevant rules and regulations promulgated by the commission, it shall be approved for licensing.

(d) The license application forms and any other documents prescribed by the commission shall be signed by an authorized officer or by an independent certified public accountant, and by the chief fiscal officer of the charitable organization and shall be verified under oath.

(e) Each chapter, branch or affiliate, except an independent member agency of a federated fund-raising organization, shall separately report the information required by this section or report the information to its parent organization, which shall then furnish such information as to itself and all of its State chapters, branches or affiliates in a consolidated form. All affiliated organizations included in a consolidated license application shall be considered as one charitable organization for all purposes of this Part. If a consolidated license application is filed, all applications thereafter filed shall be upon the same basis unless permission to change is granted by the secretary.

(f) Each federated fund-raising organization shall report the information required by this section in a consolidated form. Any federated fund-raising organization may elect to exclude from its consolidated application information relating to the separate fund-raising activities of any of its independent member agencies. No member agency of a federated fund-raising organization shall be required to report separately any information contained in such a consolidated application: Provided, however, that any separate solicitations campaign conducted by, or on behalf of, any such member agency shall nevertheless be subject to all other provisions of this Part and the rules and regulations promulgated by the commission.

(g) Both the chapter, branch or affiliate soliciting in this State as well as the parent organization which has its principal place of business outside of the State

shall be subject to all of the provisions of this Part and the rules and regulations adopted by the commission.

(h) Upon receipt of a request from the secretary or upon its own initiative, the commission shall make or cause to be made such investigation of any applicant as it may deem necessary. As a result of its investigation and action, the commission shall certify to the secretary its recommendation for approval or disapproval of the application. No applicant shall be approved if one or more of the following facts is found to exist:

(1) That one or more of the statements in the application are not true.

(2) That the applicant is or has engaged in a fraudulent transaction or enterprise.

(3) That a solicitation would be a fraud upon the public.

(4) That solicitation and fund-raising expenses (including not only payments to professional solicitors, but also payments to professional fund-raising counsel, and internal fund-raising and solicitation salaries and expenses) during the year immediately preceding the date of application have exceeded, or, for the specific year in which the application is submitted will exceed, thirty-five percent (35%) of the total moneys, pledges, or other property raised or received or to be raised or received by reason of any solicitation and/or fund-raising activities or campaigns. As used in this subsection and in G.S. 108-75.23, the term 'internal fund-raising and solicitation salaries and expenses' shall include, but not be limited to, such portions of the charitable organization's salary and overhead expenses as is fairly allocable (on a time or other appropriate basis) to its solicitation and/or fund-raising expense. In the event special facts or circumstances are presented showing that expenses higher than thirty-five percent (35%) were not or will not be unreasonable, the commission has the discretion to allow such higher expense.

(i) A charitable organization which plans no solicitation of contributions in the State upon the expiration of its current license shall file a financial report within 90 days of the expiration date of the current license period.

(j) Newly created charitable organizations with no financial history may be granted a license if, in the judgement of the secretary, all requirements for licensing except that of the financial report are satisfied.

"§ 108-75.7. *Exemptions from licensing.*—(a) The following persons shall be exempt from the licensing provisions of this Part:

(1) A corporation sole or other religious corporation, trust, or organization incorporated or established for religious purposes, or other religious organizations which serve religion by the preservation of religious rights and freedom from persecution or prejudice or by the fostering of religion, including the moral and ethical aspects of a particular religious faith: Provided, however, that such corporation sole or other religious corporation, trust or organization established for religious purposes shall not be exempt from filing a license application with respect to secular activities: Provided further, however, that no part of the net income of which inures to the benefit of any individual and that the organization had received a declaration of current tax-exempt status as a religious organization from the government of the United States.

(2) Educational institutions, the curricula of which in whole or part are

registered, approved or accredited by either the State Department of Public Education, the University of North Carolina Board of Governors, the Southern Association of Colleges and Schools or an equivalent regional accrediting body; any foundation or department having an established identity with any of the aforementioned educational institutions; and any other educational institution confining its solicitation to its student body, alumni, faculty, staff and trustees, and their families; or a library established under the laws of this State.

(3) Charitable organizations which do not intend to solicit and receive during a calendar year, and have not actually raised or received during any of the next preceding calendar years, contributions from the public in excess of two thousand dollars ($2,000) or which do not receive contributions from more than 10 persons during a calendar year: Provided that all of their functions, including fund-raising activities, must be carried on by persons who are unpaid for their services and no part of their assets or income shall inure to the benefit of or be paid to any officer or member: Provided further, that if the contributions raised from the public, whether all of such is or is not received by the charitable organization during any calendar year, shall be in excess of two thousand dollars ($2,000), it shall, within 30 days after the date the contributions reach two thousand dollars ($2,000), file an application for licensing by and report to the department as required by this Part.

(4) Persons requesting contributions for the relief of any individual specified by name at the time of the solicitation when:

a. The solicitation is managed and conducted solely by persons who are unpaid for such services;

b. The contributions collected do not exceed two thousand dollars ($2,000) in any six-month period; and

c. All of the contributions collected, without any deductions whatsoever except for the actual cost of a sale and benefit affair are turned over to the named individual beneficiary for his use.

(5) Organizations which solicit only within the membership of the organization by the members thereof.

(6) Any organization established solely to operate a hospital licensed pursuant to Article 13A of Chapter 131 of the General Statutes by the North Carolina Division of Facility Services: Provided, however, that the governing board of the hospital authorizes the solicitation and receives an accounting of funds collected and expended.

(7) A local post, camp, chapter, or similarly designated element, or a county unit of such elements, of a bona fide veteran's organization which issues charters to such local elements throughout this State; a bona fide organization of volunteer firemen; a bona fide ambulance or rescue squad association; fraternal beneficiary societies, orders or associations operating under the lodge system; or bona fide auxiliaries or affiliates of such organizations: Provided that all of the fund-raising activities are carried on by members of such organizations or of auxiliaries or affiliates thereof, and such members receive no compensation directly or indirectly therefor.

(8) Any nonprofit community club, civic club, garden club, or other similar civic group organized and in existence for more than two years, with no

capital stock or salaried executive employees, officers, members or agents; with at least ten members with annual dues collected of not less than five dollars ($5.00) per member; in which all of the funds collected, less reasonable expenses, are disbursed pursuant to the directions of the membership or the board of directors; and with the membership being furnished at least one written report each year by the directors as to its charitable activities.

(b) Any exempt charitable organization shall lose such exemption when it employs a professional fund-raising counsel or a professional solicitor.

(c) Nothing in this Part shall require licensing of or application for licensing by radio and television stations or legal newspapers, or their employees acting within the scope of their employment, which solicit contributions from the public on behalf of a person exempt from this Part under the provisions of G.S. 108-75.7; nor shall any such station, newspaper or employee thereof be considered a charitable organization, professional fund-raising counsel or professional solicitor.

"§ 108-75.8. *Licensing of professional fund-raising counsel and professional solicitors.*—(a) No person shall act as a professional fund-raising counsel or professional solicitor for any charitable organization subject to the provisions of this Part unless he has first applied for and received a license from the department. Applications for such licensing shall be in writing and verified under oath or affirmation in the form prescribed by the commission; and shall contain such reasonable information as the commission shall require about the identity and previous related activities of the applicant as may be necessary or appropriate for the public interest or for the protection of contributors. No person convicted of a felony in this or any other state shall be eligible for a license from the department or shall serve as an employee, member, officer or agent of any professional fund-raising counsel or professional solicitor until his civil rights have been restored.

(b) An individual, partnership, unincorporated association or corporation, which is a professional fund-raising counsel or professional solicitor, may apply for a license for and pay a single fee on behalf of all of its employees, officers, members and agents. The names and addresses of all employees, officers, members and agents of all professional fund-raising counsel and professional solicitors or any other persons employed to work under the direction of a professional fund-raising counsel or professional solicitor must be listed in the application. The department shall be notified in writing within two working days of any personnel changes concerning the employees, members, officers or agents of such professional fund-raising counsel or professional solicitor.

(c) The applicant shall, at the time of making application, file with and have approved by the department a bond in which the applicant shall be the principal obligor in the sum of five thousand dollars ($5,000) with one or more sureties, satisfactory to the department, whose liability in the aggregate as such sureties will at least equal the said sum; and the applicant shall maintain said bond in effect so long as the license is in effect. The bond shall run to the State for the use of said bond for any penalties and to any person who may have a cause of action against the obligor of the bond for any losses from malfeasance, misfeasance, or nonfeasance in the obligor's conduct of any and all activities subject to this Part or arising out of a violation of this Part or any rule or regulation of the commission. An individual, partnership, unincorporated

association or corporation which is a professional fund-raising counsel or professional solicitor may file a consolidated bond on behalf of all of its employees, officers, members and agents.

(d) The secretary or his designee shall examine each application, and if he finds the application to be in conformity and that the applicant has complied with the requirements of this Part and all rules and regulations of the commission, he shall approve the granting of a license.

"§ 108-75.9. *Information filed to become public records.*—All license applications, reports, professional fund-raising counsel and professional solicitor contracts and all other documents and information required to be filed under this Part or the rules and regulations of the commission, shall become public records in the office of the secretary, and shall be open to the general public for inspection at such time and under such conditions as the secretary may prescribe. In addition, the department shall, within 10 days after approval or renewal, send a list of licensees under this Part to the clerk of superior court in each county who shall file but not record said lists.

"§ 108-75.10. *Written contracts.*—(a) Every contract or agreement between a professional fund-raising counsel and a charitable organization shall be in writing and shall be filed with the department within 10 days after such written contract or agreement is entered into.

(b) Every contract, or a written statement of the nature of the arrangement to prevail in the absence of a contract, between a professional solicitor and a charitable organization shall be filed with the department within 10 days after such contract or arrangement is entered into. If the secretary or his designee concludes that such a contract or arrangement does not provide for compensation on a percentage basis, the secretary shall examine the contract or arrangement to ascertain whether the compensation to be paid in such circumstances is likely to exceed fifteen percent (15%) of the total moneys, pledges or other property raised or received as a result of the contract or arrangement. If the reasonable probabilities are that the compensation will exceed fifteen percent (15%) of the total moneys, pledges or other property, the secretary shall request the parties to provide satisfactory explanation and may, if not satisfied, request renegotiation of the arrangement upon terms acceptable to him. In the event this is not done within 10 days, the secretary may disapprove the contract or arrangement.

(c) No licensed charitable organization or professional solicitor shall carry out or execute a disapproved contract, receive or perform services, or receive or make payments pursuant to a disapproved contract.

"§ 108-75.11. *Limitation on amount of payments for solicitation activities.*—(a) No charitable organization shall pay or agree to pay to a professional solicitor or his agents, servants or employees in the aggregate, including reimbursement for expenses incurred, a total amount in excess of fifteen percent (15%) of the gross amount of moneys, pledges or other property raised or received by it as a result of his or their solicitation activities or campaigns.

(b) For purposes of this section, the payments to the professional solicitor shall not include the purchase price to the charitable organization of any tangible personal property or services which are resold by the organization as a part of its fund-raising activities; but the amount so expended by the organization shall be deducted from the gross amount collected by it, or the

organization's support received directly from the public, before the computation of the percentage limitation.

"§ 108-75.12. *Records to be kept by charitable organizations.*—Every charitable organization subject to the provisions of this Part shall, in accordance with the rules and regulations promulgated by the commission, keep true fiscal records as to its activities in this State as may be covered by the provisions of this Part for all fiscal years beginning on and after the effective date of this Part, in conformity with the generally accepted principles set out in the 'Audit Guides' published by the American Institute of Certified Public Accountants, and as may be modified from time to time by said institute or its successor. Such records shall be retained for a period of at least three years after the end of the period of licensing to which they relate. Upon demand, such records shall be made available to the department, the commission or the Attorney General for inspection.

"§ 108-75.13. *Publication of warning concerning certain charitable organizations.*—If the secretary shall determine that any charitable organization not licensed by the department and not exempt from licensing, irrespective of whether such organization is subject to the jurisdiction of this State, is directly or indirectly soliciting in this State by any means, including without limitation, telephone or telegraph, direct mail or advertising in national media, after 10 days' written notice mailed to the charitable organization, he may cause to be printed in one or more newspapers published in this State a notice in substantially the following form: 'WARNING—UNLICENSED CHARITABLE SOLICITATION. The organization named below has solicited contributions from North Carolina citizens for allegedly charitable purposes. It has not been licensed by the State Department of Human Resources as required by law. Contributors are cautioned that their contributions to such organization may be used for noncharitable purposes.'

"§ 108-75.14. *Computation of fund-raising expenses.*—Each charitable organization shall, as a part of its license application, compute the percentage which its fund-raising expenses for its preceding fiscal year bore to the support received directly from the public during such year.

"§ 108-75.15. *Reciprocal agreements.*—(a) The department may enter into reciprocal agreements with the appropriate authority of any other state or with the Internal Revenue Service for the purpose of exchanging information with respect to charitable organizations, professional fund-raising counsel and professional solicitors. Pursuant to such agreements, the department may accept information filed by a charitable organization, professional fund-raising counsel or professional solicitor with the appropriate authority of another state or with the Internal Revenue Service in lieu of the information required to be filed in accordance with the provisions of this Part and the rules and regulations of the commission, if such information is substantially similar to the information required under this Part and the rules and regulations of the commission.

(b) The department may also grant exemption from the requirement of filing an annual license application to charitable organizations organized under the laws of another state, having their principal place of business in such other state, having funds derived principally from sources outside this State, and having been granted exemption from the filing of license applications or registration statements by such other state, if such state has a statute similar in substance to

the provisions of this Part and participates in a reciprocal agreement pursuant to this section.

"§ 108-75.16. *Out-of-State enforcement proceedings.*—Any state of the United States shall have the right to sue in the courts of this State to enforce the civil provisions of any statute thereof, general in application, regulating charitable solicitations, when the like right is accorded this State by such state, whether such right is granted by statutory authority or as a matter of comity.

"§ 108-75.17. *Designation of Secretary of State as agent for service of process by nonresident charitable organizations, professional fund-raising counsel and professional solicitors; notice of such service by Secretary of State.*—(a) Any charitable organization, professional fund-raising counsel or professional solicitor having his or its principal place of business without the State, or which is organized under and by virtue of the laws of a foreign state, and which solicits contributions from people in this State, shall be subject to the provisions of this Part and shall be deemed to have irrevocably appointed the Secretary of State as an agent upon whom may be served any summons, subpoena, subpoena duces tecum or other process directed to such charitable organization, professional fund-raising counsel or professional solicitor or any partner, principal officer or director thereof in any action or proceeding.

(b) Service of such process upon the Secretary of State shall be made by personally delivering to and leaving with him a copy thereof at the office of the Secretary of State, and such service shall be sufficient service: Provided, that notice of such service and a copy of such process are sent by the Secretary of State to such charitable organization, professional fund-raising counsel or professional solicitor by registered or certified mail with return receipt requested, at the address set forth in the application form required to be filed with the department pursuant to this Part or, in default of the filing of such form, at the last address known to the Secretary of State. Service of such process shall be complete 10 days after the receipt by the Secretary of State of a return receipt purporting to be signed by the addressee or a person qualified to receive such registered or certified mail, in accordance with the rules and customs of the United States Postal Service, or after the return to the Secretary of State of the original envelope bearing a notation by the postal authorities that receipt thereof was refused.

"§ 108-75.18. *Denial, suspension or revocation of license.*—The secretary shall revoke, suspend or deny issuance of a license to a charitable organization, professional fund-raising counsel or professional solicitor at any time upon a finding that:

(1) An unreasonable percentage of the contributions solicited, or to be solicited, is not applied, or will not be applied to a charitable purpose.

(2) The contributions solicited, or to be solicited, are not applied, or will not be applied to the purpose or purposes as represented in the license application.

(3) The applicant or licensee has failed to comply with any of the provisions of this Part, or with any rules and regulations adopted by the commission pursuant to this Part.

"§ 108-75.19. *Secretary to inform of decision to deny, suspend or revoke license; applicant's or licensee's right to hearing and judicial review.*—(a) The secretary shall inform the applicant or licensee of the decision to deny, suspend or revoke the license by registered or certified mail with return receipt requested and directed to the address shown in the license application. The

notification shall contain a statement of the reason or reasons for the action being taken citing appropriate statutes, rules or regulations. The notice shall also advise the applicant or licensee of his right to appeal the decision and furnish the name and address of the chairman of the commission, to whom the request for a hearing shall be sent.

(b) Any applicant or licensee who shall be aggrieved by any denial, suspension or revocation of a license by order of the secretary may, within 20 days from the date of such order, denial, suspension or revocation, request a hearing before the commission, which hearing shall be held within 20 days of the date of the request, unless the applicant or licensee requests a longer period in writing. The commission shall, within 15 days of the termination of such hearing, render a final decision which it deems to be just and equitable and shall inform the applicant or licensee in writing of said final decision by registered or certified mail with return receipt requested.

(c) The commission shall have the power to subpoena witnesses, administer oaths and compel the production of necessary records and documents.

(d) Any person who is aggrieved by a final decision of the commission in a contested case is entitled to judicial review of such final decision. In order to obtain judicial review the person seeking review must file a petition in the Superior Court of Wake County, which petition may be filed at any time after final decision but no later than 30 days after a written copy of the decision is received by the person seeking the review. Failure to file such petition within the time stated shall operate as a waiver of the right of such person to review under this Part, except that for good cause shown, the judge of the superior court may issue an order permitting a review of the commission's decision under this Part notwithstanding such waiver.

"§ 108-75.20. *Prohibited acts.*—(a) No charitable organization, professional fund-raising counsel or professional solicitor shall use or exploit the fact of licensing so as to lead the public to believe that such licensing in any manner constitutes an endorsement or approval by the State: Provided, however, that the use of the following statement shall not be deemed a prohibited exploitation, 'Licensed to solicit in North Carolina by the Department of Human Resources as required by law. Licensing does not imply endorsement of a public solicitation for contributions.'

(b) No person shall, in connection with the solicitation of contributions for or the sale of tangible personal property or services of a person other than a charitable organization, misrepresent to or mislead anyone by any manner, means, practice or device whatsoever to believe that the person on whose behalf such solicitation or sale is being conducted is a charitable organization or that the proceeds of such solicitation or sale will be used for charitable purposes, if he has reason to believe such is not the fact.

(c) No person shall, in connection with the solicitation of contributions or the sale of tangible personal property or services for charitable purposes, misrepresent to or lead anyone by any manner, means, practice or device whatsoever to believe that any other person sponsors or endorses such solicitation of contributions, sale of tangible personal property or services for charitable purposes or approves of such charitable purposes or a charitable organization connected therewith, unless such other person has given written consent to the use of his name for these purposes: Provided that any member of the board of directors or trustees of a charitable organization, any officer or

employee thereof, or any other person who has agreed either to serve or to participate in any voluntary capacity in the campaign shall be deemed thereby to have given his consent to the use of his name in the campaign. Nothing contained in this section shall prevent the publication of names of contributors without their written consents, in an annual or other periodic report issued by a charitable organization for the purpose of reporting on its operations and affairs to its membership, or for the purpose of reporting contributions to contributors.

(d) No person shall make any representation that he is soliciting contributions for or on behalf of a charitable organization or shall use or display any symbol, emblem, device or printed matter belonging to or associated with a charitable organization for the purpose of soliciting or inducing contributions from the public without first being authorized to do so by the charitable organization.

(e) No person shall denominate any membership fee or purchase price of tangible personal property or services sold, as a contribution or as a donation or in any other manner represent or imply that the member or the purchaser of such tangible personal property or services will be entitled to an income tax deduction for his cost or any portion thereof unless (1) there shall have been first obtained a signed opinion of counsel or an Internal Revenue Service ruling or determination letter holding such cost to be deductible, or (2) the member or purchaser is informed in writing that such cost may not be deductible; nor shall any charitable organization, other than an organization exempt under G.S. 108-75.7(a)(3), represent or imply that a contributor thereto will be entitled to an income tax deduction for his contribution unless there shall have been first obtained a signed opinion of counsel or an Internal Revenue Service ruling or determination letter holding gifts to such organization to be so deductible.

(f) No professional solicitor shall solicit in the name of or on behalf of any charitable organization unless such solicitor has:

(1) Written authorization of two officers of such organization, a copy of which shall be filed with the secretary. Such written authorization shall bear the signature of the solicitor and shall expressly state on its face the period for which it is valid, which shall not exceed one year from the date issued.

(2) Such authorization with him when making solicitations, which shall be exhibited on request to persons solicited, or law enforcement officers, or agents of the department.

(g) No charitable organization shall accept any contribution exceeding five dollars ($5.00) in cash or tangible property without providing on request of the donor a written receipt acknowledging such contribution and personally signed by the person accepting such contribution.

(h) No person, and no organization of which such person is an officer, professional fund-raising counsel or professional solicitor, shall solicit within the State if:

(1) Such person has been convicted in any jurisdiction of any felony unless his civil rights have been restored; or

(2) Such person has ever been enjoined by any court or otherwise prohibited from soliciting in any jurisdiction, unless the secretary shall first determine in writing that such person is entitled to solicit in such jurisdiction at the time of soliciting within this State.

(i) No person shall solicit within this State for the benefit of any other person located without the State, if such other person refuses to supply any information which the secretary deems necessary to assure himself that the provisions of this Part and the rules and regulations of the commission are complied with. A solicitation shall be deemed to be on behalf of every person who or which receives, directly or indirectly, more than ten percent (10%) of the gross amount collected.

"§ 108-75.21. *Refiling of denied or revoked license.*—(a) When a license has been denied, suspended or revoked, a charitable organization may file another license application for the purpose of soliciting contributions within the State of North Carolina for the next fiscal year, provided it submits to the secretary the following:

(1) Written assurance that the subject matter of the denial, suspension or revocation of the license and the reasons therefor have been submitted to governing board of the charitable organization and placed on the agenda for consideration at its next meeting;

(2) An extract of the minutes of such meeting covering this subject matter and a statement listing all corrective measures that shall be taken in order to ensure compliance with the order or decision of the secretary, which measures have been agreed to by the charitable organization's board; and

(3) A letter signed by the principal officer of the charitable organization transmitting the extract of the minutes cited in subdivision (2) of this subsection and indicating a willingness to attend a hearing for the purpose of providing any further information regarding the charitable organization's operations or programs.

(b) Any professional fund-raising counsel or professional solicitor whose application has been denied or whose license has been suspended or revoked may file another license application for the next fiscal year, provided he submits to the secretary the following:

(1) A written statement listing all corrective measures that shall be taken in order to ensure compliance with the order or decision of the secretary, and

(2) A letter signed by the professional fund-raising counsel or professional solicitor which states that he is willing to attend a hearing for the purpose of providing any further information regarding his operations or programs.

"§ 108-75.22. *Enforcement and penalties.*—(a) If any charitable organization, professional fund-raising counsel or professional solicitor fails to file an application for a license, a report, document, statement or any other information required to be filed with the department, or otherwise violates the provisions of this Part or the rules and regulations of the commission, the department shall notify the delinquent or violating charitable organization, professional fund-raising counsel or professional solicitor by mailing a notice by registered or certified mail, with return receipt requested, to its last known address. If the required application, report, document, statement or other information is not filed or if the existing violation is not discontinued within 15 days after the formal notification or receipt of such notice, the department shall deny the issuance of the license or revoke or suspend the current license in effect.

(b) The secretary, upon his own motion or upon the complaint of any person, may, if he has reasonable ground to suspect a violation, investigate any charitable organization, professional fund-raising counsel or professional solicitor to determine whether such charitable organization, professional fund-raising counsel or professional solicitor has violated the provisions of this Part or the rules and regulations of the commission, or has filed any application or other information required under this Part which contains false or misleading statements.

(c) The license of any charitable organization, professional fund-raising counsel or professional solicitor who knowingly makes a false or misleading statement in any application for license, statement, report or other information required to be filed with the department under this Part, shall be revoked.

(d) In addition to the foregoing, any person who willfully and knowingly violates any provisions of this Part or the rules and regulations of the commission, or who shall willfully and knowingly give false or incorrect information to the department in filing statements or reports required by this Part or by the rules and regulations of the commission, whether or not such report or statement is verified, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced for the first offense to pay a fine of not less that one hundred dollars ($100.00) and not more than five hundred dollars ($500.00) or be imprisoned for not more than six months, or both; and for the second and any subsequent offense to pay a fine of not less than five hundred dollars ($500.00) and not more than one thousand dollars ($1,000) or to be imprisoned for not more than one year, or both.

(e) Whenever the Attorney General or any district attorney shall have reason to believe or shall be advised by the secretary or the commission (who shall have given due notice and full hearing to a charitable organization, professional fund-raising counsel or professional solicitor) that a charitable organization, professional fund-raising counsel or professional solicitor is operating in violation of the provisions of this Part or the rules and regulations of the commission; or whenever a charitable organization, professional fund-raising counsel or professional solicitor has failed to file a license application, statement, report or other information required by this Part or the rules and regulations of the commission; or whenever there is employed or is about to be employed in any solicitation or collection of contributions for a charitable organization any device, scheme, or artifice to defraud or to obtain money or property by means of any false pretense, representation or promise; or whenever the officers or representatives of any charitable organization, professional fund-raising counsel or professional solicitor have refused or failed after notice to produce any records of such organization; or whenever the funds raised by solicitation activities are not devoted or will not be devoted to the charitable purposes of the charitable organization: In addition to all other actions authorized by law, the Attorney General or district attorney may bring an action in the name of the State against such charitable organization and its officers, professional fund-raising counsel, professional solicitor or other person to enjoin such charitable organization, professional fund-raising counsel, professional solicitor or other person from continuing such violation, solicitation or collection, or engaging therein, or doing any acts in furtherance thereof or from further temporary or permanent solicitation of funds in this State, and for such other relief as to the court deems appropriate.

(f) The secretary may exercise the authority granted in this section against any charitable organization which operates under the guise or pretense of being an organization exempted by the provisions of G.S. 108-75.7 and is not in fact an organization entitled to such an exemption.

"§ 108-75.23. *Fees.*—(a) License fees shall be collected by the secretary at the time of the filing of an application for a license from the department, according to the following schedule:

SCHEDULE OF FEES.

(1) Every charitable organization which does not engage a professional fund-raising counsel or a professional solicitor, expends less than seven percent (7%) of the contributions received for internal fund-raising and solicitation salaries and expenses, and submits a proper license application statement to the department shall pay an annual license fee of ten dollars ($10.00).

(2) Every other charitable organization which submits a proper license application to the department shall pay an annual license fee of twenty-five dollars ($25.00) if the charitable organization solicits and receives gross contributions from the public of twenty-five thousand dollars ($25,000) or less during the immediate preceding fiscal year.

(3) Every charitable organization which submits a proper license application to the department shall pay an annual license fee of one hundred dollars ($100.00) if the charitable organization solicits and receives gross contributions in excess of twenty-five thousand dollars ($25,000) during the immediate preceding fiscal year.

(4) A parent organization filing on behalf of one or more chapters, branches or affiliates and a federated fund-raising organization filing on behalf of its member agencies shall pay a single annual license fee of one hundred dollars ($100.00) for itself and such chapters, branches, affiliates or member agencies included in the license application.

(5) Every professional fund-raising counsel and professional solicitor which submits a proper license application to the department shall pay an annual license fee of fifty dollars ($50.00).

(b) The fund created by the collection of these fees shall be set aside for the sole purpose of financing the requirements of the administration of this Part. Additional funds, if any, as may be required for the administration of this Part shall be appropriated from the General Fund of the State.

"§ 108-75.24. *Conflicting laws.*—Ordinances, resolutions or regulations, now or hereafter in effect, of the governing body of a municipality or county, relating to the regulation of the solicitation of charitable funds, shall not be superseded by this Part: Provided, that such ordinances or regulations are and continue to be consistent and compatible with the provisions of this Part, as amended, and rules and regulations promulgated by the commission."

Sec. 2. G.S. 143B-153(3)f., as the same appears in the 1974 Replacement of Volume 3C of the General Statutes, is amended by deleting the words, "public solicitor", and substituting therefor the words, "charitable organizations, professional fund-raising counsel and professional solicitors".

Sec. 3. If any provision of this act, or the application of such provision to any person or under any circumstances shall be held invalid, the remainder of this act, or the application of such provisions to persons or under any

circumstances, other than those as to which it shall have been held invalid, shall not be affected thereby.

Sec. 4. This act shall not apply to public supported community foundations or public supported community trusts as defined in Section 501(c)(3) of the Internal Revenue Code of 1954, or corresponding provisions or any subsequent Federal Tax Laws.

Sec. 5. This act shall become effective on October 1, 1975.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. B. 917 CHAPTER 748

AN ACT TO PREVENT FACILITATION OF THE UNLAWFUL TAKING OF GAME WITH THE AID OF BOATS BY MEANS OF PLACING RESTRICTIONS UPON THE TRANSPORTATION OF GAME ABOARD MOTOR-PROPELLED VESSELS IN THE WATERWAYS, RIVERS, CREEKS OR STREAMS LYING WITHIN THE BOUNDARIES OF NORTHAMPTON, CUMBERLAND, GATES AND HERTFORD COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. No person aboard a motor-propelled vessel on the waterways, rivers, creeks or streams in Northampton, Cumberland, Gates or Hertford Counties shall transport game that was taken unlawfully. No person in charge of any motor-propelled vessel or towed-vessel on said waterways, rivers, creeks or streams in Northampton, Cumberland, Gates or Hertford Counties shall permit anyone to have in possession aboard such vessel game that was taken unlawfully.

Sec. 2. As used in this act, a motor-propelled vessel includes any vessel propelled by machinery or equipped with propulsion machinery, except that the term shall not include an outboard motorboat, the motor for which has been completely removed from place and stored aboard the vessel.

Sec. 3. The provisions of this action shall not apply to any person exempt from provisions of G.S. 14-269 with respect to any activities lawfully engaged in while carrying out his duties, and shall not apply to the Halifax County side of the Roanoke River. The provisions of this act, as it relates to Halifax and Northampton Counties, shall apply only to the waters and tributaries of the Roanoke River.

Sec. 4. All law enforcement officers, including enforcement officers of the Wildlife Resources Commission, shall have jurisdiction to enforce the provisions of this act.

Sec. 5. Any person violating the provisions of this act shall be punished by fine not to exceed one hundred dollars ($100.00) or imprisonment not to exceed 30 days, or both.

Sec. 6. This act shall become effective September 1, 1975.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. B. 953 **CHAPTER 749**

AN ACT RELATING TO PUNISHMENT FOR RAPES COMMITTED PRIOR TO THE EFFECTIVE DATE OF CHAPTER 1201, SESSION LAWS OF 1973.

The General Assembly of North Carolina enacts:

Section 1. The provisions of G.S. 14-21, as rewritten by Section 2 of Chapter 1201 of the Session Laws of 1973, shall apply in all trials hereafter conducted for rapes committed after January 18, 1973, and prior to April 8, 1974, the effective date of Chapter 1201, Session Laws of 1973.

Sec. 2. (a) In cases in which the defendant has been convicted of a rape committed after January 18, 1973, and prior to April 8, 1974, and the verdict and sentence of death are or have been sustained on appeal, the defendant may apply once to the judge presiding at the rape trial resulting in the sentence of death, or, if said judge is unavailable, to a resident superior court judge of the judicial district in which said rape trial was held, to determine whether the defendant could have been punished by death had the rape been committed by him after the ratification of Chapter 1201, Session Laws of 1973.

(b) Said judge shall review a certified transcript of the evidence presented at trial (or if such transcript is not available, the record on appeal), make such independent investigation as he deems necessary to determine the age of the defendant or of the rape victim, and hear arguments or accept briefs in behalf of the defendant and the State.

(c) Thereupon, the judge shall determine the following question:

Is the evidence presented at the defendant's trial, plus additional evidence of the age of the defendant or the age of the rape victim, sufficient to submit the defendant's case to a jury on the charge of first degree rape as defined by G.S. 14-21(a), had the date of the rape been after April 8, 1974?

(d) If the question is answered in the affirmative, the defendant shall remain subject to the sentence of death. If the question is answered in the negative, the judge shall forthwith schedule a hearing for the presentation of evidence relative to resentencing the defendant; after the hearing, the sentence of death for rape previously imposed shall be vacated, and the defendant shall be resentenced as if he had been convicted of second degree rape for a rape committed after April 8, 1974.

(e) There shall be no right of appeal from the determination of the judge, but the Supreme Court of North Carolina may, upon petition for certiorari, allow review of said determination.

(f) In cases of resentencing, the defendant shall be allowed credit for time spent in custody awaiting the execution of the sentence of death.

Sec. 3. An indigent person under sentence of death for a rape committed after January 18, 1973, and before April 8, 1974, shall be entitled to counsel in making one application under this act for each such sentence of death, if he is otherwise entitled under Article 36 of Chapter 7A of the General Statutes of North Carolina.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. B. 958 **CHAPTER 750**

AN ACT TO AMEND G.S. 116-174 INCREASING THE RATE OF INTEREST TO BE PAID ON SCHOLARSHIP LOANS BY PROSPECTIVE TEACHERS FROM FOUR PERCENT (4%) TO SIX PERCENT (6%).

The General Assembly of North Carolina enacts:

Section 1. G.S. 116-174(2) is amended by deleting the figure "4%" and substituting in lieu thereof the figure "6%" as the same appears in line 2.

Sec. 2. This act shall become effective upon ratification and shall apply only to loans made after ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. B. 959 **CHAPTER 751**

AN ACT TO AMEND G.S. 130-3, G.S. 130-158, G.S. 130-159 and G.S. 130-161 IN ORDER TO CLARIFY LAW CONCERNING WATER SANITATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-3, as it appears in Volume 3B of the General Statutes, is hereby amended by adding the following subsection (j):

"(j) 'Unit of local government' means a county, city, consolidated city-county, sanitary district, or other local political subdivision, authority or agency of local government."

Sec. 2. G.S. 130-158, as it appears in Volume 3B of the General Statutes, is hereby rewritten to read as follows:

"§ 130-158. *Suppliers of water to comply with rules of Commission for Health Services.*—In the interest of the public health, every person or unit of local government supplying water to the public for drinking and household purposes shall comply with the rules and regulations of the Commission for Health Services in the location, construction and operation of a water supply system. Any provisions in any charters heretofore granted to such persons or units of local government in conflict with the provisions of this Article are hereby repealed."

Sec. 3. G.S. 130-159, as it appears in Volume 3B of the General Statutes, is hereby amended in line 8 by deleting the words "public water and sewer facilities" and substituting therefor "water supply systems". G.S. 130-159 is hereby further amended by deleting the third sentence.

Sec. 4. G.S. 130-161, as it appears in Volume 3B of the General Statutes, is hereby rewritten to read as follows:

"§ 130-161. *Submission and approval of water supply system plans. Department to provide advice.*—The Department of Human Resources shall advise all persons and units of local government locating, constructing, altering or operating or intending to locate, construct, alter, or operate a water supply system of the most appropriate source of water supply and the best practical

method of assuring the purity thereof, having regard to the present and prospective needs and interests of other persons and units of local government which may be affected thereby. The Department shall also advise concerning accepted engineering practices in the location, construction, alteration, and operation of water supply systems.

All persons and units of local government constructing or altering a water supply system shall give prior notice thereof and submit plans, specifications, and other information therefor to the Department of Human Resources. The Commission for Health Services shall promulgate rules and regulations providing for the amount of prior notice required to be given and the nature and detail of the plans, specifications, and other information required to be submitted. The commission shall take into consideration the complexity of the construction or alteration which may be involved and the resources of the department to review the plans, specifications, and other information. The department shall review the plans, specifications, and other information and notify the person or unit of local government of compliance or lack thereof with applicable law and rules and regulations of the Commission for Health Services.

No person or unit of local government shall construct or alter a water supply system until plans therefor have been approved by the Department of Human Resources."

Sec. 4. This act shall become effective January 1, 1976.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. B. 962 CHAPTER 752

AN ACT TO AMEND G.S. 105-164.4 TO DELETE "AIRPLANE" AND SUBSTITUTE IN LIEU THEREOF "AIRCRAFT".

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.4, as the same appears in the 1974 Cumulative Supplement to 1972 Replacement Volume 2D of the General Statutes, is amended by deleting the word "airplane" from line 17 and line 20 thereof and substituting therefor the following:

"aircraft".

Sec. 2. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. B. 984 CHAPTER 753

AN ACT TO AMEND G.S. 136-44.6 RELATING TO THE ALLOCATION OF SECONDARY ROADS MAINTENANCE FUNDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-44.6 is hereby amended by inserting the words "State maintained" after the words "miles of" in the second sentence.

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. B. 993 **CHAPTER 754**

AN ACT TO AMEND THE GENERAL STATUTES RELATING TO MEDICAL AND DISABILITY BENEFITS FOR TEACHERS AND STATE EMPLOYEES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 135-33 is hereby amended by striking out the following words from the last sentence thereof:

"Coverage for himself and dependents provided he pays the established applicable premium for the plan or plans of insurance as determined by the Board of Trustees of the Teachers' and State Employees' Retirement System based on actuarial experience."

And substituting in lieu thereof the following:

"The same hospital and medical care insurance and benefits for himself and/or dependents available to active teachers and State employees until they become ineligible for such insurance or benefits due to reasons other than retirement, provided such member or dependents agrees to and pays by a deduction from retirement benefits or by other appropriate method an amount not greater than the cost of such benefits for active teachers and State employees. And provided further the board of trustees shall offer any members who were vested at the time of retirement, their spouses or surviving spouses who are eligible for Medicare a plan of supplemental insurance designed to provide them with medical and hospital insurance benefits comparable to the benefits offered active teachers and State employees, if such member or surviving spouse agrees to and pays by a deduction from retirement benefits or other appropriate method the cost of such benefits."

Sec. 2. The provisions of this act relating to hospital and medical care insurance and benefits shall become effective October 1, 1975, and the provisions of this act relating to a plan of supplemental insurance for Medicare shall become effective January 1, 1976.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. B. 1048 **CHAPTER 755**

AN ACT TO AMEND G.S. 105-275 RELATING TO PROPERTY EXEMPT FROM AD VALOREM TAXATION SO AS TO EXEMPT NURSERY STOCK THEREFROM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-275 is amended by adding a new subdivision (22) to read as follows:

"(22) All nursery stock, herbaceous and nonherbaceous (annual, biennial, or perennial plants including rooted cuttings) in the ground, pots, hothouses, greenhouses, raised beds, containers or otherwise held by the original producer. Provided, this exemption shall not apply to pots or similar containers in which said nursery stock is planted."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. B. 1070 **CHAPTER 756**

AN ACT TO PROVIDE FOR SETTLEMENT OF TORT CLAIMS BY THE OFFICE OF THE ATTORNEY GENERAL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-295 is hereby rewritten to read as follows:

"§ 143-295. *Settlement of claims.*—(a) Any claims except claims of minors pending or hereafter filed against the various departments, institutions and agencies of the State may be settled upon agreement between the claimant and the Attorney General for an amount not in excess of one thousand dollars ($1,000), without the approval of the Industrial Commission. The Attorney General may also make settlements by agreement for claims in excess of one thousand dollars ($1,000) and claims of infants or persons non sui juris provided such claims have been subject to review and approval by the Industrial Commission.

(b) In settlements under one thousand dollars ($1,000), agreed upon between the Attorney General and the claimant, the filing of an affidavit as set forth in G.S. 143-297 shall not be required.

(c) Transfer of title of a motor vehicle acquired in behalf of the State in settlement of claim pursuant to the provisions of this Article may be transferred by the Attorney General in the same manner as provided for such transfer by an insurance company under the provisions of G.S. 20-75."

Sec. 2. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. B. 1082 **CHAPTER 757**

AN ACT TO AMEND G.S. 153A-305 RELATING TO PROVISION OF SERVICES IN A NEWLY CREATED SERVICE DISTRICT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153A-305(a) is rewritten to read as follows:

"§ 153A-305. *Required provision or maintenance of services.*—(a) New District. When a county defines a new service district, it shall provide, maintain, or let contracts for the services for which the residents of the district are being taxed within a reasonable time, not to exceed one year, after the effective date of the definition of the district or after the levying of taxes provided for in G.S. 153A-307, whichever last occurs."

Sec. 2. The provisions of this act shall apply only to Onslow County.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. B. 1101 **CHAPTER 758**

AN ACT TO INCORPORATE THE TOWN OF STALLINGS, UNION COUNTY, NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. The inhabitants of the area described in Section 2 of this act shall be and constitute a body politic and corporate under the name of the "Town of Stallings", and shall have all the power, authority, rights, privileges and immunities conferred upon municipal corporations by the Constitution and general laws of North Carolina, and particularly Chapter 160A of the General Statutes.

Sec. 2. The corporate limits of the Town of Stallings in Union County, North Caroina, shall be as herein described until changed as authorized by law:

"BEGINNING at a point in the center of Seaboard Coastline RR on Mecklenburg-Union County line and running thence straight in a northeasterly direction with said county line, crossing SR #1367 and U. S. Hwy. #74, a distance of approximately 4400 ft. to a point on the division line between properties of Fifty-Four Investment Co. and Brothers Investment Co. (which point is approximately 425 ft. beyond the centerline of New U. S. Hwy. #74); thence easterly with said division line approximately 940 ft. to a corner of the Brothers Investment Co. property; thence continuing easterly on a slightly different course, cutting across several other properties, approximately 2145 ft. to the point where a branch of Crooked Creek crosses the division line between Earl Surratt and Wallace Davis properties; thence continuing in a generally easterly direction approximately 825 ft. to the point of intersection of said branch with the center of SR #1365; thence southwesterly with the center of SR #1365 approximately 250 ft. to its point of intersection with the center of an accessway leading into Forest Park Subdivision (which accessway is identified on tax map as Elizabeth C. Love's lot #151-B); thence with the center of said accessway southeasterly approximately 445 ft.; thence crossing the southerly edge of said accessway, southwesterly approximately 840 ft. along the division line between O. H. McKechnie and Vance Sherrin to one of their common corners; thence with another of their division lines almost due south approximately 65 ft. to another of their corners in common with S. M. Sandy's lot #21 of Forest Park Subdivision; thence with the northwesterly line of Forest Park Subdivision (which subdivision *is not* herein embraced), passing the dead ends of Forest Park Road and Pine Tree Drive, in a southwesterly direction approximately 1995 ft. to the northwest corner of Lot #50 of said subdivision; thence with the southwesterly line of Forest Park Subdivision in a southeasterly direction approximately 1175 ft. crossing Forest Park Road at its indentation point, to Jim Marrone's northeast corner on W. B. Love, Jr. property line; thence with Love's westerly line, southwesterly, passing the center of new U. S. Hwy. #74 at approximately 430 ft. a total distance of approximately 1765 ft. to SR #1367; thence across said road to J. B. Smith's northeast corner; thence with three of Smith's easterly lines, 1st - 697 ft. in a southerly direction; 2nd - 595 ft. southwesterly; and 3rd - 1103 ft. in a southerly direction to SR #1366; thence in a southwesterly direction 1089 ft. more or less to a point in the centerline of SR #1368, said point being located N. 30-46-W, 206.25 ft. from the intersection of said SR #1368 with the northwestern line of the E. N. O'Neal property; thence with the centerline of said road in five courses as follows: (1) N. 30-46-W,

528.92 ft.; (2) N. 33-58-W, 210.4 ft.; (3) N. 38-31-W, 241.2 ft.; (4) N. 41-20-W, 262.5 ft.; and (5) N. 44-15-W, 707.65 ft.; thence leaving said road and running S. 71-27-E, 387.65 ft. to a corner of the S. A. Flowe, Jr. property; thence N. 31-10-W, 703.5 ft.; thence N. 42-21-E, 192 ft. to a point in the centerline of said SR #1368; thence with the centerline of said road N. 43-40-W, 150 ft.; thence leaving said road and running S. 45-37-W, 296 ft.; thence N. 45-16-W, 541.2 ft. to a point in the southerly margin of SR #1365; thence with said southerly margin S. 47-32-W, 24.8 ft.; thence S. 45-24-E, 321.5 ft.; thence S. 46-03-W, 146.4 ft; thence S. 53-31-W, 204.4 ft.; thence S. 53-52-W, 113.3 ft.; thence N. 41-42-W, 348.6 ft. to a point in the southerly margin of SR #1365; thence with the southerly margin of said road S. 68-15-W, 63.5 ft.; thence leaving said road and running S. 41-42-E, 364.5 ft.; thence S. 53-52-W, 298.7 ft.; thence S. 68-03-W, 314.8 ft.; thence N. 13-35-W, 56.6 ft.; thence S. 67-03-W, 120.2 ft.; thence S. 14-43-E, 378.8 ft.; thence N. 83-28-E, 1704.7 ft.; thence S. 4-40 W, 1262.2 ft.; thence S. 73-43-W, 2180.8 ft.; thence S. 33-55-E, 40 ft.; thence N. 86-40-W, 497.7 ft. to a point in the centerline of SR #1009 (Old Monroe Road); thence with the centerline of said road S. 33-18-E, 126.7 ft; thence N. 33-50-E, 42.5 ft. to a point in the easterly margin of said road; thence S. 86-40-E, 450 ft.; thence S. 33-55-E, 1486.4 ft.; thence N. 73-11-E, 1756.6 ft.; thence S. 21-01-E, 549.4 ft. to a common corner of James R. Kindley, Billy G. Broom, and Lots Nos. 32 and 38 of Bryson Village Subdivision; thence southwesterly with the division line between Billy G. Broom and Bryson Village Subdivision approximately 1810 ft. to Old Charlotte Hwy. (now SR #1009) thence in a northwesterly direction with the center line of the Old Charlotte Highway (old N. C. Highway #74) 860 feet, more or less, to the southeast corner of a triangular tract of land, property of J. I. Broome; thence with two of Broome's lines in a westerly direction 386 feet more or less, and 400 feet, more or less; thence in a northwest direction 33 feet, more or less, to the rear corner of Lot #61 of Lakewood Knolls Subdivision; thence with the rear lines of lots numbers 38 through 61, inclusive, of said subdivision, in a southwesterly direction to the southwest corner of said subdivision; thence in a southerly direction with the westerly line of the James Helms Estate (now or formerly) 1340 feet, more or less, to a corner of the J. D. Cline property; thence with Cline's line and the northerly line of the Earl P. McAteer property 274 feet to a point, McAteer's northeast corner; thence with McAteer's easterly line, 247.5 feet, more or less, to a point in the center line of S. R. #1362; thence with the center line of said S. R. #1362, 1980 feet, more or less, to its intersection with the center line of S. R. #1357; thence north approximately 2300 ft. with the center of SR #1357 to its point of intersection with the center of SR #1363, this being the southeast corner of Spring Hill Subdivision (which *is* herein embraced); thence westerly along the southerly line of said subdivision with the center of SR #1363, passing Spring Hill Drive and Wood Glen Lane intersections, 1st. approximately 2400 ft. and 2nd., a little more southwesterly passing Timberland Road intersection approximately 430 additional feet to the southwest corner of said subdivision, also being the southwest corner of Lot #45 therein; thence north by a little west with the O. L. Phillips estate line, this being the westerly line of Spring Hill Subdivision, approximately 840 ft. to the northwest corner of said subdivision, also being the northwest corner of Lot #38 therein; thence with another of Phillips' lines and the northerly subdivision line, easterly by a little north approximately 1770 ft. to the midway point on the

north line of Lot #21 of said subdivision; thence northerly by a little west, across the Phillips property and continuing with the west line of Pleasant Plains Baptist Church Lot #6, approximately 2100 ft. to a point on the Mecklenburg-Union County line; thence northeasterly straight along said county line, crossing SR #1356, passing through Morningwood Drive, Forestmont Drive, Woodfern Place and Friendship Drive all in Eastwood Trailer Park, crossing SR #1009 and SR #1337 and two segments of Stallings Drive in Kingsberry Subdivision, a total distance of approximately 6400 ft. to the point of place of BEGINNING on said county line and in the center of Seaboard Coastline RR right-of-way."

Sec. 3. The Town of Stallings shall have the mayor-council form of government and the administration thereof shall be as provided in Part 3, Article 7 of Chapter 160A of the General Statutes. The council shall consist of four members elected by the qualified voters of the town for terms of two years.

Sec. 4. At the organizational meeting to be held on the first Monday in December after each regular municipal election for councilmen, the members of the council shall select one of its members as mayor to serve at the pleasure of the council.

Sec. 5. The municipal elections shall be nonpartisan and decided by a simple plurality, as provided in G.S. 163-279 (a)(1) and shall be held and conducted by the county board of elections in accordance with the applicable provisions of Articles 23 and 24 of Chapter 163 of the General Statutes.

The municipal election shall be held on Tuesday after the first Monday in November, 1975, and every two years thereafter.

Sec. 6. The officers elected under this act shall take office on the first Monday in December following their election and qualify by taking the oath of office. The council shall hold a regular meeting at least once a month, and shall fix the time and place of its regular meetings.

Sec. 7. The fiscal affairs of the town shall be governed by Chapter 159 of the General Statutes and all other pertinent provisions of the Constitution and general laws of the State. The territory within the corporate limits, its citizens and property shall be subject to municipal taxes levied by the town for the fiscal year 1975-76, and subsequent years. The town shall obtain from Union County, and the county shall provide, upon request, a record of the property within the corporate limits which were listed for taxation as of January 1, 1975.

Sec. 8. The first election held pursuant to this act shall be paid for by the county, but the Town of Stallings shall reimburse the county for the cost of the election as soon as the town treasury has funds sufficient on hand.

Sec. 9. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. B. 1173 **CHAPTER 759**

AN ACT TO ALLOW ESTON B. THOMPSON TO PRACTICE LAND SURVEYING IN A PORTION OF WESTERN SURRY COUNTY AND TO ALLOW MACK AIKEN TO PRACTICE LAND SURVEYING IN HENDERSON COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Eston B. Thompson is hereby authorized to engage in the practice of land surveying without complying with the provisions of Chapter 89 of the North Carolina General Statutes in the Townships of Bryan, Dobson, Elkin, Franklin and Marsh, all of which are located in Surry County, North Carolina.

Sec. 2. Mack Aiken is hereby authorized to engage in the practice of land surveying in Henderson County without complying with the provisions of Chapter 89 of the North Carolina General Statutes, as amended.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. B. 1179 **CHAPTER 760**

AN ACT TO REPEAL CHAPTER 180 OF THE 1971 SESSION LAWS WHICH PROHIBITED HUNTING FROM THE RIGHT-OF-WAY OF PUBLIC HIGHWAYS, ROADWAYS OR OTHER PUBLICLY-MAINTAINED THOROUGHFARES IN NASH COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 180 of the 1971 Session Laws is hereby repealed.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. B. 1257 **CHAPTER 761**

AN ACT TO CREATE AND ESTABLISH A BOARD OF EDUCATION TO OPERATE ALL OF THE PUBLIC SCHOOLS IN WILKES COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The Wilkes County Board of Education (hereinafter referred to as the "Merged Board") shall originally be composed of eight persons, consisting of John Bryan, Sam Ogilvie, Tracy Walker, Dr. Hal Hawkins, Tom W. Hayes, George S. Forester, Jr., Bert Joines, and Theda Moore. Terms of all members named to the merged board shall begin on July 1, 1975, and terms of the respective members shall expire as set forth in Section 2 of this act.

Sec. 2. Terms of members and election of successors:

(a) The terms of Dr. Hal Hawkins, John Bryan, Tracy Walker, and George S. Forester, Jr., shall expire on the first Monday in December, 1976. At the primary election to be held in 1976, three members shall be elected for a four-year term from the county at large in a nonpartisan election to fill the four vacancies created by expiration of these terms, thereby reducing the membership on the merged board to seven members.

(b) The terms of Tom W. Hayes, Sam Ogilvie, and Bert Joines shall expire on the first Monday in December, 1978. At the primary election to be held in 1978, two members shall be elected for a four-year term from the county at large in a nonpartisan election to fill the three vacancies created by expiration of these terms, thereby reducing membership on the merged board to six members.

(c) The term of Theda Moore shall expire on the first Monday in December, 1980, as will the terms of the three members elected to take office on the first Monday in December, 1976. At the primary election to be held in 1980, three members shall be elected for a term of four years from the county at large to fill the four vacancies created by expiration of these terms, thereby reducing the membership on the merged board to five members.

Sec. 3. On and after the first Monday in December, 1980, the Wilkes County Board of Education shall consist of five members, with members to be elected for a term of four years from the county at large in a nonpartisan election to fill vacancies created by expiring terms at the primary election held in the year in which the terms expire.

Sec. 4. The terms of office of members of the North Wilkesboro City Board of Education who are not named in Section 1 of this act are terminated as of the effective date of the merger plan.

Sec. 5. In the event of a vacancy on the Wilkes County Board of Education by reason of death, resignation, or other cause, the remaining members of the Wilkes County Board of Education shall appoint a person to serve until the next election of members of such board, at which time the remaining unexpired term of the office in which the vacancy occurs shall be filled by election.

Sec. 6. Compensation. Each member of the board shall receive compensation in the amount of seventy-five dollars ($75.00) per month and the chairman of the board shall receive one hundred twenty-five dollars ($125.00) per month.

Sec. 7. This act shall become effective on the date of approval by the State Board of Education of a final merger plan, and shall be retroactive to July 1, 1975, in the event that the final merger plan is not approved prior to July 1, 1975.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. B. 509 CHAPTER 762

AN ACT TO REWRITE THE RULES OF CIVIL PROCEDURE GOVERNING DISCOVERY AND DEPOSITIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1A-1, Rule 5(a) is hereby rewritten as follows:

"Rule 5. Service and Filing of Pleadings and Other Papers.

(a) Service when required. Every order required by its terms to be served, every pleading subsequent to the original complaint unless the court otherwise orders because of numerous defendants, every paper relating to discovery required to be served upon a party unless the court otherwise orders, every written motion other than one which may be heard *ex parte*, and every written notice, appearance, demand, offer of judgment and similar paper shall be served upon each of the parties, but no service need be made on parties in default for

failure to appear except that pleadings asserting new or additional claims for relief against them shall be served upon them in the manner provided for service of summons in Rule 4."

Sec. 2. G.S. 1A-1, Rules 26 through 37, the same being Article 5 of G.S. 1A-1, is hereby rewritten as follows:

"Article 5.

"Depositions and Discovery.

"Rule 26. General Provisions Governing Discovery.

(a) Discovery methods. Parties may obtain discovery by one or more of the following methods: depositions upon oral examination or written questions; written interrogatories; production of documents or things or permission to enter upon land or other property, for inspection and other purposes; physical and mental examinations; and requests for admission. Unless the court orders otherwise under subdivision (c) of this rule, the frequency of use of these methods is not limited.

(b) Scope of discovery. Unless otherwise limited by order of the court in accordance with these rules, the scope of discovery is as follows:

(1) In general. Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence nor is it ground for objection that the examining party has knowledge of the information as to which discovery is sought.

(2) Insurance agreements. A party may obtain discovery of the existence and contents of any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment. Information concerning the insurance agreement is not by reason of disclosure admissible in evidence at trial. For purposes of this paragraph, an application for insurance shall not be treated as part of an insurance agreement.

(3) Trial preparation: materials. Subject to the provisions of subdivision (b)(4) of this rule, a party may obtain discovery of documents and tangible things otherwise discoverable under subdivision (b)(1) of this rule and prepared in anticipation of litigation or for trial by or for another party or by or for that other party's consultant, surety, indemnitor, insurer, or agent only upon a showing that the party seeking discovery has substantial need of the materials in the preparation of his case and that he is unable without undue hardship to obtain the substantial equivalent of the materials by other means. In ordering discovery of such materials when the required showing has been made, the court may not permit disclosure of the mental impressions, conclusions, opinions, or legal theories of an attorney or other

representative of a party concerning the litigation in which the material is sought or work product of the attorney or attorneys of record in the particular action.

A party may obtain without the required showing a statement concerning the action or its subject matter previously made by that party. Upon request, a person not a party may obtain without the required showing a statement concerning the action or its subject matter previously made by that person. If the request is refused, the person may move for a court order. The provisions of Rule 37(a)(4) apply to the award of expenses incurred in relation to the motion. For purposes of this paragraph, a statement previously made is (A) a written statement signed or otherwise adopted or approved by the person making it, or (B) a stenographic, mechanical, electrical, or other recording, or a transcription thereof, which is a substantially verbatim recital of an oral statement by the person making it and contemporaneously recorded.

(4) Trial preparation: experts. Discovery of facts known and opinions held by experts, otherwise discoverable under the provisions of subdivision (b)(1) of this rule and acquired or developed in anticipation of litigation or for trial, may be obtained only as follows:

(A) (i) A party may through interrogatories require any other party to identify each person whom the other party expects to call as an expert witness at trial, to state the subject matter on which the expert is expected to testify, and to state the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion. (ii) Upon motion, the court may order further discovery by other means, subject to such restrictions as to scope and such provisions, pursuant to subdivision (b)(4)(C) of this rule, concerning fees and expenses as the court may deem appropriate.

(B) Unless manifest injustice would result, (i) the court shall require that the party seeking discovery pay the expert a reasonable fee for time spent in responding to discovery under subdivision (b)(4)(A)(ii) of this rule; and (ii) with respect to discovery obtained under subdivision (b)(4)(A)(ii) of this rule the court may require the party seeking discovery to pay the other party a fair portion of the fees and expenses reasonably incurred by the latter party in obtaining facts and opinions from the expert.

(c) Protective orders. Upon motion by a party or by the person from whom discovery is sought, and for good cause shown, the judge of the court in which the action is pending may make any order which justice requires to protect a party or person from unreasonable annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following: (1) that the discovery not be had; (2) that the discovery may be had only on specified terms and conditions, including a designation of the time or place; (3) that the discovery may be had only by a method of discovery other than that selected by the party seeking discovery; (4) that certain matters not be inquired into, or that the scope of the discovery be limited to certain matters; (5) that discovery be conducted with no one present except persons designated by the court; (6) that a deposition after being sealed be opened only by order of the court; (7)

that a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way; (8) that the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the court.

If the motion for a protective order is denied in whole or in part, the court may, on such terms and conditions as are just, order that any party or person provide or permit discovery. The provisions of Rule 37(a)(4) apply to the award of expenses incurred in relation to the motion.

(d) Sequence and timing of discovery. Unless the court upon motion, for the convenience of parties and witnesses and in the interests of justice, orders otherwise, methods of discovery may be used in any sequence and the fact that a party is conducting discovery, whether by deposition or otherwise, shall not operate to delay any other party's discovery. Any order or rule of court setting the time within which discovery must be completed shall be construed to fix the date after which the pendency of discovery will not be allowed to delay trial or any other proceeding before the court, but shall not be construed to prevent any party from utilizing any procedures afforded under Rules 26 through 36, so long as trial or any hearing before the court is not thereby delayed.

(e) Supplementation of responses. A party who has responded to a request for discovery with a response that was complete when made is under no duty to supplement his response to include information thereafter acquired, except as follows:

(1) A party is under a duty seasonably to supplement his response with respect to any question directly addressed to (A) the identity and location of persons having knowledge of discoverable matters, and (B) the identity of each person expected to be called as an expert witness at trial, the subject matter on which he is expected to testify, and the substance of his testimony.

(2) A party is under a duty seasonably to amend a prior response if he obtains information upon the basis of which (A) he knows that the response was incorrect when made, or (B) he knows that the response though correct when made is no longer true and the circumstances are such that a failure to amend the response is in substance a knowing concealment.

(3) A duty to supplement responses may be imposed by order of the court, agreement of the parties, or at any time prior to trial through new requests for supplementation of prior responses.

"Rule 27. Depositions Before Action or Pending Appeal.

(a) Before action.

(1) Petition. A person who desires to perpetuate his own testimony or that of another person regarding any matter may file a verified petition in the appropriate court in a county where any expected adverse party resides. The petition shall be entitled in the name of the petitioner and shall show: (A) that the petitioner expects that he, or his personal representative, heirs, legatees or devisees will be a party to an action cognizable in any court, but that he is presently unable to bring it or cause it to be brought, (B) the subject matter of the expected action and his reasons for desiring to perpetuate it, (C) the facts which he desires to establish by the proposed testimony and his reasons for desiring to perpetuate it, (D) the names or a description of the persons he expects

will be adverse parties and their addresses so far as known, and (E) the names and addresses of the persons to be examined and the substance of the testimony which he expects to elicit from each, and shall ask for an order authorizing the petitioner to take the depositions of the persons to be examined named in the petition, for the purpose of perpetuating their testimony.

(2) Notice and Service. The petitioner shall thereafter serve a notice upon each person named in the petition as an expected adverse party, together with a copy of the petition, stating that the petitioner will apply to the court, at a time and place named therein, for the order described in the petition. At least 20 days before the date of hearing (or within such time as the court may direct) the notice shall be served in the manner provided in Rule 4(j)(1) or (2) for service of summons; but if such service cannot with due diligence be made upon any expected adverse party named in the petition, the court may make such order as is just for service by publication or otherwise, and shall appoint, for persons not served in the manner provided in Rule 4(j)(1) or (2), an attorney who shall represent them, in case they are not otherwise represented. If any expected adverse party is a minor or incompetent the provisions of Rule 17(c) apply.

(3) Order and Examination. If the court is satisfied that the perpetuation of the testimony may prevent a failure or delay of justice, it shall make an order designating or describing the persons whose depositions may be taken and specifying the subject matter of the examination and whether the depositions shall be taken upon oral examination or written questions. The depositions may then be taken in accordance with these rules; and the court may make orders of the character provided for by Rules 34 and 35. For the purpose of applying these rules to depositions for perpetuating testimony, each reference therein to the court in which the action is pending shall be deemed to refer to the court in which the petition for such deposition was filed.

(4) Use of Deposition. If a deposition to perpetuate testimony is taken under these rules or if, although not so taken, it would be admissible in evidence in the courts of the United States or the state in which it is taken, it may be used in any action involving the same subject matter subsequently brought in a court of this State in accordance with the provisions of Rule 32(a), or in any other court under whose rules it is admissible.

(b) Pending appeal. If an appeal has been taken from the determination of any court or if petition for review or certiorari has been served and filed, or before the taking of an appeal or the filing of a petition for review or certiorari if the time therefor has not expired, the court in which the determination was made may allow the taking of the depositions of witnesses to perpetuate their testimony for use in the event of further proceedings in the trial court. In such case the party who desires to perpetuate the testimony may make a motion in the trial court for leave to take the depositions, upon the same notice and service thereof as if the action was pending in the trial court. The motion shall show (1) the names and addresses of the persons to be examined and the substance of the testimony which he expects to elicit from each; (2) the reasons for perpetuating their testimony. If the court finds that the perpetuation of the testimony is

proper to avoid a failure or delay of justice, it may make an order allowing the depositions to be taken and may make orders of the character provided for by Rules 34 and 35, and thereupon the depositions may be taken and used in the same manner and under the same conditions as are prescribed in these rules for depositions taken in actions pending in the trial court.

(c) Perpetuation by action. This rule does not limit the power of a court to entertain an action to perpetuate testimony.

"Rule 28. Persons Before Whom Depositions May be Taken.

(a) Within the United States. Within the United States or within a territory or insular possession subject to the dominion of the United States, depositions shall be taken before a person authorized to administer oaths by the laws of this State, of the United States or of the place where the examination is held, or before a person appointed by the court in which the action is pending. A person so appointed has power to administer oaths and take testimony.

(b) In foreign countries. In a foreign country, depositions may be taken (1) on notice before a person authorized to administer oaths in the place in which the examination is held, either by the law thereof or by the law of the United States, or (2) before a person commissioned by the court, and a person so commissioned shall have the power by virtue of his commission to administer any necessary oath and take testimony, or (3) pursuant to a letter rogatory. A commission or a letter rogatory shall be issued on application and notice and on terms that are just and appropriate. It is not requisite to the issuance of a commission or a letter rogatory that the taking of the deposition in any other manner is impracticable or inconvenient; and both a commission and a letter rogatory may be issued in proper cases. A notice or commission may designate the person before whom the deposition is to be taken either by name or descriptive title. A letter rogatory may be addressed "To the Appropriate Authority in (here name the country)." Evidence obtained in response to a letter rogatory need not be excluded merely for the reason that it is not a verbatim transcript or that the testimony was not taken under oath or for any similar departure from the requirements for depositions taken within the United States under these rules.

(c) Disqualification for interest. No deposition shall be taken before a person who is a relative or employee or attorney or counsel of any of the parties, or is a relative or employee of such attorney or counsel, or is financially interested in the action unless the parties agree otherwise by stipulation as provided in Rule 29.

(d) Depositions to be used outside this State.

(1) A person desiring to take depositions in this State to be used in proceedings pending in the courts of any other state or country may present to a judge of the superior or district court a commission, order, notice, consent, or other authority under which the deposition is to be taken, whereupon it shall be the duty of the judge to issue the necessary subpoenas pursuant to Rule 45. Orders of the character provided in Rules 30 (b), 30(d), and 45(b) may be made upon proper application therefor by the person to whom such subpoena is directed. Failure by any person without adequate excuse to obey a subpoena served upon him pursuant to this rule may be deemed a contempt of the court from which the subpoena issued.

(2) The commissioner herein provided for shall not proceed to act under and by virtue of his appointment until the party seeking to obtain such

deposition has deposited with him a sufficient sum of money to cover all costs and charges incident to the taking of the deposition, including such witness fees as are allowed to witnesses in this State for attendance upon the superior court. From such deposit the commissioner shall retain whatever amount may be due him for services, pay the witness fees and other costs that may have been incurred by reason of taking such deposition, and if any balance remains in his hands, he shall pay the same to the party by whom it was advanced.

"Rule 29. Stipulations Regarding Discovery Procedure.

Unless the court orders otherwise, the parties may by written stipulation (1) provide that depositions may be taken before any person, at any time or place, upon any notice, and in any manner and when so taken may be used like other depositions, and (2) modify the procedures provided by these rules for other methods of discovery.

"Rule 30. Depositions Upon Oral Examination.

(a) When depositions may be taken. After commencement of the action, any party may take the testimony of any person, including a party, by deposition upon oral examination. Leave of court, granted with or without notice, must be obtained only if the plaintiff seeks to take a deposition prior to the expiration of 30 days after service of the summons and complaint upon any defendant or service made under Rule 4(e), except that leave is not required (1) if a defendant has served a notice of taking deposition or otherwise sought discovery, or (2) if special notice is given as provided in subdivision (b)(2) of this rule. The attendance of witnesses may be compelled by subpoena as provided in Rule 45, provided that no subpoena need be served on a deponent who is a party or an officer, director or managing agent of a party, provided the party has been served with notice pursuant to subdivision (b)(1) of this rule. The deposition of a person confined in prison or of a patient receiving in-patient care in or confined to an institution or hospital for the mentally ill or mentally handicapped may be taken only by leave of court on such terms as the court prescribes.

(b) Notice of examination: General requirements; place of examination; special notice; non-stenographic recording; production of documents and things; deposition of organization.

(1) A party desiring to take the deposition of any person upon oral examination shall give notice in writing to every other party to the action. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs. If a subpoena duces tecum is to be served on the person to be examined, the designation of the materials to be produced as set forth in the subpoena shall be attached to or included in the notice. The notice shall be served on all parties at least 15 days prior to the taking of the deposition when any party required to be served resides without the State and shall be served on all parties at least 10 days prior to the taking of the deposition when all of the parties required to be served reside within the State. Depositions of parties, officers, directors or managing agents of parties or of other persons designated pursuant to subdivision (b)(6) hereof to testify on behalf of a party may be taken only at the following places:

A resident of the State may be required to attend for examination by

deposition only in the county wherein he resides or is employed or transacts his business in person. A nonresident of the State may be required to attend for such examination only in the county wherein he resides or within 50 miles of the place of service except that a judge, as defined by subdivision (h) of this rule, may, upon motion showing good cause, require that a party who selected the county where the action is pending as the forum for the action or an officer, director or managing agent of such a party, or a person designated pursuant to subdivision (b)(6) hereof to testify on behalf of such a party present himself for the taking of his deposition in the county where the action is pending. The judge upon granting the motion may make any other orders allowed by Rule 26(c) with respect thereto, including orders with respect to the expenses of the deponent.

(2) Leave of court is not required for the taking of a deposition by plaintiff if the notice (A) states that the person to be examined is about to go out of the county where the action is pending and more than 100 miles from the place of trial, or is about to go out of the United States, or is bound on a voyage to sea, and will be unavailable for examination unless his deposition is taken before expiration of the 30-day period, and (B) sets forth facts to support the statement. The plaintiff's attorney shall sign the notice, and his signature constitutes a certification by him that to the best of his knowledge, information, and belief the statement and supporting facts are true. The sanctions provided by Rule 11 are applicable to the certification.

If a party shows that when he was served with notice under this subdivision (b)(2) he was unable through the exercise of diligence to obtain counsel to represent him at the taking of the deposition, the deposition may not be used against him.

(3) The court may for cause shown enlarge or shorten the time for taking the deposition.

(4) The court may upon motion order that the testimony at a deposition be recorded by other than stenographic means, in which event the order shall designate the manner of recording, preserving, and filing the deposition, and may include other provisions to assure that the recorded testimony will be accurate and trustworthy. If the order is made, a party may nevertheless arrange to have a stenographic transcription made at his own expense.

(5) A party deponent, deponents who are officers, directors or managing agents of parties and other persons designated pursuant to subdivisions (b)(6) hereof to testify on behalf of a party may not be served with a subpoena duces tecum, but the notice to a party for the deposition of such a deponent may be accompanied by a request made in compliance with Rule 34 for the production of documents and tangible things at the taking of the deposition. The procedure of Rule 34, except as to time for response, shall apply to the request. When a notice to take such a deposition is accompanied by a request made in compliance with Rule 34 the notice and the request must be served at least 15 days earlier than would otherwise be required by Rule 30(b)(1), and any objections to

such a request must be served at least seven days prior to the taking of the deposition.

(6) A party may in his notice and in a subpoena name as the deponent a public or private corporation or a partnership or association or governmental agency and describe with reasonable particularity the matters on which examination is requested. In that event, the organization so named shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which he will testify. A subpoena shall advise a non-party organization of its duty to make such a designation. It shall not be necessary to serve a subpoena on an organization which is a party, but the notice, served on a party without an accompanying subpoena shall clearly advise such of its duty to make the required designation. The persons so designated shall testify as to matters known or reasonably available to the organization. This subdivision (b)(6) does not preclude taking a deposition by any other procedure authorized in these rules.

(c) Examination and cross-examination; record of examination; oath; objections.

Examination and cross-examination of witnesses may proceed as permitted at the trial under the provisions of Rule 43(b). The person before whom the deposition is to be taken shall put the deponent on oath and shall personally, or by someone acting under his direction and in his presence, record the testimony of the deponent. The testimony shall be taken stenographically or recorded by any other means ordered in accordance with subdivision (b)(4) of this rule. If requested by one of the parties, the testimony shall be transcribed.

All objections made at the time of the examination to the qualifications of the person before whom the deposition is taken, or to the manner of taking it, or to the evidence presented, or to the conduct of any party, and any other objection to the proceedings, shall be noted upon the deposition by the person before whom the deposition is taken. Subject to any limitations imposed by orders entered pursuant to Rule 26(c) or 30(d), evidence objected to shall be taken subject to the objections. In lieu of participating in the oral examination, parties may serve written questions in a sealed envelope on the party who served the notice of taking the deposition, and he shall transmit them to the person before whom the deposition is to be taken who shall open them at the deposition, propound them to the witness and record the answers verbatim.

(d) Motion to terminate or limit examination.

At any time during the taking of the deposition, on motion of a party or of the deponent and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, a judge of the court in which the action is pending or any judge in the county where the deposition is being taken may order the person before whom the examination is being taken to cease forthwith from taking the deposition, or may limit the scope and manner of the taking of the deposition as provided in Rule 26(c). If the order made terminates the examination, it shall be resumed thereafter only upon the order of a judge of the court in which the action is pending. Upon demand of the objecting party or deponent, the taking of the deposition shall be suspended for the time necessary to make a motion for an

order. The provisions of Rule 37(a)(4) apply to the award of expenses incurred in relation to the motion.

(e) Submission to deponent; changes; signing. When the testimony is fully transcribed the deposition shall be submitted to the deponent for examination and shall be read to or by him, unless such examination and reading are waived by the deponent and by the parties. Any changes in form or substance which the deponent desires to make shall be entered upon the deposition by the person before whom the deposition was taken with a statement of the reasons given by the deponent for making them. The deposition shall then be signed by the deponent, unless the parties by stipulation waive the signing or the deponent is ill or cannot be found or refuses to sign. If the deposition is not signed by the deponent within 30 days of its submission to him, the person before whom the deposition was taken shall sign the original thereof or, if the deponent refuses to return the original, a copy thereof and state on the record the fact of the waiver or of the illness or absence of the deponent or the fact of the refusal or failure to sign together with the reason, if any, given therefor; and the deposition may then be used as fully as though signed unless on a motion to suppress under Rule 32(d)(4) the court holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

(f) Certification and filing by officer; exhibits; copies; notice of filing.

(1) The officer shall certify on the deposition that the deponent was duly sworn by him and that the deposition is a true record of the testimony given by the deponent. He shall then securely seal the deposition in an envelope indorsed with the title of the action and marked 'Deposition of (here insert name of witness)' and shall promptly file it with the court in which the action is pending or send it by registered or certified mail to the clerk thereof for filing.

Documents and things produced for inspection during the examination of the deponent, shall, upon the request of a party, be marked for identification and annexed to and returned with the deposition, and may be inspected and copied by any party, except that (A) the person producing the materials may substitute copies to be marked for identification, if he affords to all parties fair opportunity to verify the copies by comparison with the originals, and (B) if the person producing the materials requests their return, the person before whom the deposition is taken shall mark them, give each party an opportunity to inspect and copy them, and return them to the person producing them, and the materials may then be used in the same manner as if annexed to and returned with the deposition. Any party may move for an order that the original be annexed to and returned with the deposition to the court, pending final disposition of the case.

(2) Upon payment of reasonable charges therefor, the officer shall furnish a copy of the deposition to any party or to the deponent.

(3) The clerk shall give prompt notice of the filing of a deposition to all parties.

(g) Failure to attend or to serve subpoena; expenses.

(1) If the party giving the notice of the taking of a deposition fails to attend and proceed therewith and another party attends in person or by attorney pursuant to the notice, the judge may order the party giving

the notice to pay to such other party the reasonable expenses incurred by him and his attorney in attending, including reasonable attorney's fees.

(2) If the party giving the notice of the taking of a deposition of a witness fails to serve a subpoena upon him and the witness because of such failure does not attend, and if another party attends in person or by attorney because he expects the deposition of that witness to be taken, the judge may order the party giving the notice to pay to such other party the reasonable expenses incurred by him and his attorney in attending, including reasonable attorney's fees.

(h) Judge; definition.

(1) In respect to actions in the superior court, a judge of the court in which the action is pending shall, for the purposes of this rule, and Rule 26, Rule 31, Rule 33, Rule 34, Rule 35, Rule 36 and Rule 37, be either a resident judge of the judicial district or a judge regularly presiding over the courts of the district or any special superior court judge holding court within the judicial district or residing therein.

(2) In respect to actions in the district court, a judge of the court in which the action is pending shall, for the purposes of this rule, Rule 26, Rule 31, Rule 33, Rule 34, Rule 35, Rule 36 and Rule 37, be the chief district judge or any judge designated by him pursuant to G.S. 7A-192.

(3) In respect to actions in either the superior court or the district court, a judge of the court in the county where the deposition is being taken shall, for the purposes of this rule, be either a resident judge of the judicial district or a judge regularly presiding over the courts, or any special superior court judge holding court within the judicial district or residing therein, or the chief judge of the district court or any judge designated by him pursuant to G.S. 7A-192.

"Rule 31. Depositions Upon Written Questions.

(a) Serving questions; notice. After commencement of the action, any party may take the testimony of any person, including a party, by deposition upon written questions. The attendance of witnesses may be compelled by the use of subpoena as provided in Rule 45 provided that no subpoena need be served on a deponent who is a party or an officer, director or managing agent of a party, provided the party has been served with notice pursuant to this rule. Such a deposition shall be taken in the county where the witness resides or is employed or transacts his business in person unless the witness agrees that it may be taken elsewhere. The deposition of a person confined in prison or of a patient receiving in-patient care in or confined to an institution or hospital for the mentally ill or mentally handicapped may be taken only by leave of court on such terms as the court prescribes.

A party desiring to take a deposition upon written questions shall serve them upon every other party with a notice stating (1) the name and address of the person who is to answer them, if known, and if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs, and (2) the name or descriptive title and address of the officer before whom the deposition is to be taken. A deposition upon written questions may be taken of a public or private corporation or a partnership or association or governmental agency in accordance with the provisions of Rule 30(b)(6).

Within 30 days after the notice and written questions are served, a party may serve cross questions upon all other parties. Within 10 days after being served

with cross questions, a party may serve redirect questions upon all other parties. Within 10 days after being served with redirect questions, a party may serve recross questions upon all other parties. The court may for cause shown enlarge or shorten the time.

(b) Person to take responses and prepare record. A copy of the notice and copies of all questions served shall be delivered by the party taking the deposition to the person designated in the notice to take the deposition, who shall proceed promptly, in the manner provided by Rule 30(c), (e), and (f), to take the testimony of the deponent in response to the questions and to prepare, certify, and file or mail the deposition, attaching thereto the copy of the notice and the questions received by him.

(c) Notice of filing. When the deposition is filed the clerk shall promptly give notice thereof to all parties.

"Rule 32. Use of Depositions in Court Proceedings.

(a) Use of depositions. At the trial or upon the hearing of a motion or an interlocutory proceeding or upon a hearing before a referee, any part or all of a deposition, so far as admissible under the rules of evidence applied as though the witness were then present and testifying, may be used against any party who was present or represented at the taking of the deposition or who had reasonable notice thereof, in accordance with any of the following provisions:

(1) Any deposition may be used by any party for the purpose of contradicting or impeaching the testimony of deponent as a witness.

(2) The deposition of a person called as a witness may also be used as substantive evidence by any party adverse to the party who called the deponent as a witness and it may be used by the party calling deponent as a witness as substantive evidence of such facts stated in the deposition as are in conflict with or inconsistent with the testimony of deponent as a witness.

(3) The deposition of a party or of any one who at the time of taking the deposition was an officer, director, or managing agent, or a person designated under Rule 30(b)(6) or 31(a) to testify on behalf of a public or private corporation, partnership or association or governmental agency which is a party may be used by an adverse party for any purpose, whether or not the deponent testifies at the trial or hearing.

(4) The deposition of a witness, whether or not a party, may be used by any party for any purpose if the court finds: (A) that the witness is dead; or (B) that the witness is at a greater distance than 100 miles from the place of trial or hearing, or is out of the United States, unless it appears that the absence of the witness was procured by the party offering the deposition; or (C) that the witness is unable to attend or testify because of age, illness, infirmity, or imprisonment; or (D) that the party offering the deposition has been unable to procure the attendance of the witness by subpoena; or (E) upon application and notice, that such exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally in open court, to allow the deposition to be used.

(5) If only part of a deposition is offered in evidence by a party, an adverse party may require him to introduce any other part which is relevant to the part introduced, and any party may introduce any other parts.

Substitution of parties pursuant to Rule 25 does not affect the right to

use depositions previously taken; and, when an action in any court of the United States or of any state has been dismissed and another action involving the same subject matter is afterward brought between the same parties or their representatives or successors in interest, all depositions lawfully taken and duly filed in the former action may be used in the latter as if originally taken therefor.

(b) Objections to admissibility. Subject to the provisions of Rules 28(b) and subdivision (d)(3) of this rule, objection may be made at the trial or hearing to receiving in evidence any deposition or part thereof for any reason which would require the exclusion of the evidence if the witness were then present and testifying.

(c) Effect of taking or using depositions. A party does not make a person his own witness for any purpose by taking his deposition. The introduction in evidence of the deposition or any part thereof for any purpose other than that of contradicting or impeaching the deponent makes the deponent the witness of the party introducing the deposition, but this shall not apply to the use by an adverse party of a deposition under subdivision (a)(2) of this rule. At the trial or hearing any party may rebut any relevant evidence contained in a deposition whether introduced by him or by any other party.

(d) Effect of errors and irregularities in depositions.

(1) As to Notice. All errors and irregularities in the notice for taking a deposition are waived unless written objection is promptly served upon the party giving the notice.

(2) As to Disqualification of Person before Whom Taken. Objection to taking a deposition because of disqualification of the person before whom it is to be taken is waived unless made before the taking of the deposition begins or as soon thereafter as the disqualification becomes known or could be discovered with reasonable diligence.

(3) As to Taking of Deposition.

(A) Objections to the competency of a witness or to the competency, relevancy, or materiality of testimony are not waived by failure to make them before or during the taking of the deposition, unless the ground of the objection is one which might have been obviated or removed if presented at that time.

(B) Errors and irregularities occurring at the oral examination in the manner of taking the deposition, in the form of the questions or answers, in the oath or affirmation, or in the conduct of parties, and errors of any kind which might be obviated, removed, or cured if promptly presented, are waived unless seasonable objection thereto is made at the taking of the deposition.

(C) Objections to the form of written questions submitted under Rule 31 are waived unless served in writing upon the party propounding them within the time allowed for serving the succeeding cross or other questions and within five days after service of the last questions authorized.

(4) As to Completion and Return of Deposition. Errors and irregularities in the manner in which the testimony is transcribed or the deposition is prepared, signed, certified, sealed, indorsed, transmitted, filed, or otherwise dealt with by the person taking the deposition under Rules 30 and 31 are waived unless a motion to suppress the deposition or some

part thereof is made with reasonable promptness after such defect is, or with due diligence might have been, ascertained.

"Rule 33. Interrogatories to Parties.

(a) Availability; procedures for use. Any party may serve upon any other party written interrogatories to be answered by the party served or, if the party served is a public or private corporation or a partnership or association or governmental agency, by any officer or agent, who shall furnish such information as is available to the party. Interrogatories may, without leave of court, be served upon the plaintiff after commencement of the action and upon any other party with or after service of the summons and complaint upon that party.

Each interrogatory shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer. The answers are to be signed by the person making them, and the objections signed by the attorney making them. The party upon whom the interrogatories have been served shall serve a copy of the answers, and objections if any, within 30 days after the service of the interrogatories, except that a defendant may serve answers or objections within 45 days after service of the summons and complaint upon that defendant. The court may allow a shorter or longer time. The party submitting the interrogatories may move for an order under Rule 37(a) with respect to any objection to or other failure to answer an interrogatory.

(b) Scope; use at trial. Interrogatories may relate to any matters which can be inquired into under Rule 26(b), and the answers may be used to the extent permitted by the rules of evidence.

An interrogatory otherwise proper is not necessarily objectionable merely because an answer to the interrogatory involves an opinion or contention that relates to fact or the application of law to fact, but the court may order that such an interrogatory need not be answered until after designated discovery has been completed or until a pretrial conference or other later time.

(c) Option to produce business records. Where the answer to an interrogatory may be derived or ascertained from the business records of the party upon whom the interrogatory has been served or from an examination, audit or inspection of such business records, or from a compilation, abstract or summary based thereon, and the burden of deriving or ascertaining the answer is substantially the same for the party serving the interrogatory as for the party served, it is a sufficient answer to such interrogatory to specify the records from which the answer may be derived or ascertained and to afford to the party serving the interrogatory reasonable opportunity to examine, audit or inspect such records and to make copies, compilations, abstracts or summaries.

"Rule 34. Production of Documents and Things and Entry Upon Land for Inspection and Other Purposes.

(a) Scope. Any party may serve on any other party a request (1) to produce and permit the party making the request, or someone acting on his behalf, to inspect and copy, any designated documents (including writings, drawings, graphs, charts, photographs, phono-records, and other data compilations from which information can be obtained, translated, if necessary, by the respondent through detection devices into reasonably usable form), or to inspect and copy, test, or sample any tangible things which constitute or contain matters within the scope of Rule 26(b) and which are in the possession, custody or control of the

party upon whom the request is served; or (2) to permit entry upon designated land or other property in the possession or control of the party upon whom the request is served for the purpose of inspection and measuring, surveying, photographing, testing, or sampling the property or any designated object or operation thereon, within the scope of Rule 26(b).

(b) Procedure. The request may, without leave of court, be served upon the plaintiff after commencement of the action and upon any other party with or after service of the summons and complaint upon that party. The request shall set forth the items to be inspected either by individual item or by category, and describe each item and category with reasonable particularity. The request shall specify a reasonable time, place, and manner of making the inspection and performing the related acts.

The party upon whom the request is served shall serve a written response within 30 days after the service of the request, except that a defendant may serve a response within 45 days after service of the summons and complaint upon that defendant. The court may allow a shorter or longer time. The response shall state, with respect to each item or category, that inspection and related activities will be permitted as requested, unless the request is objected to, in which event the reasons for objection shall be stated. If objection is made to part of an item or category, the part shall be specified. The party submitting the request may move for an order under Rule 37(a) with respect to any objection to or other failure to respond to the request or any part thereof, or any failure to permit inspection as requested.

(c) Persons not parties. This rule does not preclude an independent action against a person not a party for production of documents and things and permission to enter upon land.

"Rule 35. Physical and Mental Examination of Persons.

(a) Order for examination. When the mental or physical condition (including the blood group) of a party, or of an agent or a person in the custody or under the legal control of a party, is in controversy, a judge of the court in which the action is pending as defined by Rule 30(h) may order the party to submit to a physical or mental examination by a physician or to produce for examination his agent or the person in his custody or legal control. The order may be made only on motion for good cause shown and upon notice to the person to be examined and to all parties and shall specify the time, place, manner, conditions, and scope of the examination and the person or persons by whom it is to be made.

(b) Report of examining physician.

(1) If requested by the party against whom an order is made under Rule 35(a) or the person examined, the party causing the examination to be made shall deliver to him a copy of a detailed written report of the examining physician setting out his findings, including results of all tests made, diagnoses and conclusions, together with like reports of all earlier examinations of the same condition. After such request and delivery the party causing the examination shall be entitled upon request to receive from the party against whom the order is made a like report of any examination, previously or thereafter made, of the same condition, unless, in the case of a report of examination of a person not a party, the party shows that he is unable to obtain it. The court on motion may make an order against a party requiring delivery of a report on such

terms as are just, and if a physician fails or refuses to make a report the court may exclude his testimony if offered at the trial.

(2) By requesting and obtaining a report of the examination so ordered or by taking the deposition of the examiner, the party examined waives any privilege he may have in that action or any other involving the same controversy, regarding the testimony of every other person who has examined or may thereafter examine him in respect of the same mental or physical condition.

(3) This subdivision applies to examinations made by agreement of the parties, unless the agreement expressly provides otherwise. This subdivision does not preclude discovery of a report of an examining physician or the taking of a deposition of the physician in accordance with the provisions of any other rule.

"Rule 36. Requests for Admission.

(a) Request for admission. A party may serve upon any other party a written request for the admission, for purposes of the pending action only, of the truth of any matters within the scope of Rule 26(b) set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Copies of documents shall be served with the request unless they have been or are otherwise furnished or made available for inspection and copying. The request may, without leave of court, be served upon the plaintiff after commencement of the action and upon any other party with or after service of the summons and complaint upon that party.

Each matter of which an admission is requested shall be separately set forth. The matter is admitted unless, within 30 days after service of the request, or within such shorter or longer time as the court may allow, the party to whom the request is directed serves upon the party requesting the admission a written answer or objection addressed to the matter, signed by the party or by his attorney, but, unless the court shortens the time, a defendant shall not be required to serve answers or objections before the expiration of 45 days after service of the summons and complaint upon him. If objection is made, the reasons therefor shall be stated. The answer shall specifically deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party qualify his answer or deny only a part of the matter of which an admission is requested, he shall specify so much of it as is true and qualify or deny the remainder. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless he states that he has made reasonable inquiry and that the information known or readily obtainable by him is insufficient to enable him to admit or deny. A party who considers that a matter of which an admission has been requested presents a genuine issue for trial may not, on that ground alone, object to the request; he may, subject to the provisions of Rule 37(c), deny the matter or set forth reasons why he cannot admit or deny it.

The party who has requested the admissions may move to determine the sufficiency of the answers or objections. Unless the court determines that an objection is justified, it shall order that an answer be served. If the court determines that an answer does not comply with the requirements of this rule, it may order either that the matter is admitted or that an amended answer be

served. The court may, in lieu of these orders, determine that final disposition of the request be made at a pre-trial conference or at a designated time prior to trial. The provisions of Rule 37(a)(4) apply to the award of expenses incurred in relation to the motion.

(b) Effect of admission. Any matter admitted under this rule is conclusively established unless the court on motion permits withdrawal or amendment of the admission. Subject to the provisions of Rule 16 governing amendment of a pre-trial order, the court may permit withdrawal or amendment when the presentation of the merits of the action will be subserved thereby and the party who obtained the admission fails to satisfy the court that withdrawal or amendment will prejudice him in maintaining his action or defense on the merits. Any admission made by a party under this rule is for the purpose of the pending action only and is not an admission by him for any other purpose nor may it be used against him in any other proceeding.

"Rule 37. Failure to Make Discovery: Sanctions.

(a) Motion for order compelling discovery. A party, upon reasonable notice to other parties and all persons affected thereby, may apply for an order compelling discovery as follows:

(1) Appropriate Court. An application for an order to a party or a deponent who is not a party may be made to a judge of the court in which the action is pending, or, on matters relating to a deposition where the deposition is being taken in this State, to a judge of the court in the county where the deposition is being taken, as defined by Rule 30(h).

(2) Motion. If a deponent fails to answer a question propounded or submitted under Rules 30 or 31, or a corporation or other entity fails to make a designation under Rule 30(b)(6) or 31(a), or a party fails to answer an interrogatory submitted under Rule 33, or if a party, in response to a request for inspection submitted under Rule 34, fails to respond that inspection will be permitted as requested or fails to permit inspection as requested, the discovering party may move for an order compelling an answer, or a designation, or an order compelling inspection in accordance with the request. When taking a deposition on oral examination, the proponent of the question shall complete the examination on all other matters before he adjourns the examination in order to apply for an order.

If the court denies the motion in whole or in part, it may make such protective order as it would have been empowered to make on a motion made pursuant to Rule 26(c).

(3) Evasive or Incomplete Answer. For purposes of this subdivision an evasive or incomplete answer is to be treated as a failure to answer.

(4) Award of Expenses of Motion. If the motion is granted, the court shall, after opportunity for hearing, require the party or deponent whose conduct necessitated the motion or the party advising such conduct or both of them to pay to the moving party the reasonable expenses incurred in obtaining the order, including attorney's fees, unless the court finds that the opposition to the motion was substantially justified or that other circumstances make an award of expenses unjust.

If the motion is denied, the court shall after opportunity for hearing, require the moving party to pay to the party or deponent who opposed the motion the reasonable expenses incurred in opposing

the motion, including attorney's fees, unless the court finds that the making of the motion was substantially justified or that other circumstances make an award of expenses unjust.

If the motion is granted in part and denied in part, the court may apportion the reasonable expenses incurred in relation to the motion among the parties and persons in a just manner.

(b) Failure to comply with order.

(1) Sanctions by Court in County Where Deposition is Taken. If a deponent fails to be sworn or to answer a question after being directed to do so by a judge of the court in the county in which the deposition is being taken, the failure may be considered a contempt of that court.

(2) Sanctions by Court in Which Action is Pending. If a party or an officer, director, or managing agent of a party or a person designated under Rule 30(b)(6) or 31(a) to testify on behalf of a party fails to obey an order to provide or permit discovery, including an order made under subdivision (a) of this rule or Rule 35, a judge of the court in which the action is pending may make such orders in regard to the failure as are just, and among others the following:

(A) An order that the matters regarding which the order was made or any other designated facts shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order;

(B) An order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting him from introducing designated matters in evidence;

(C) An order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or proceeding or any part thereof, or rendering a judgment by default against the disobedient party;

(D) In lieu of any of the foregoing orders or in addition thereto, an order treating as a contempt of court the failure to obey any orders except an order to submit to a physical or mental examination;

(E) Where a party has failed to comply with an order under Rule 35(a) requiring him to produce another for examination, such orders as are listed in paragraphs (A), (B), and (C) of this subdivision, unless the party failing to comply shows that he is unable to produce such person for examination.

In lieu of any of the foregoing orders or in addition thereto, the court shall require the party failing to obey the order to pay the reasonable expenses, including attorney's fees, caused by the failure, unless the court finds that the failure was substantially justified or that other circumstances make an award of expenses unjust.

(c) Expenses on failure to admit. If a party fails to admit the genuineness of any document or the truth of any matter as requested under Rule 36, and if the party requesting the admissions thereafter proves the genuineness of the document or the truth of the matter, he may apply to the court for an order requiring the other party to pay him the reasonable expenses incurred in making that proof, including reasonable attorney's fees. The court shall make the order unless it finds that (1) the request was held objectionable pursuant to Rule 36(a), or (2) the admission sought was of no substantial importance, or (3) the

party failing to admit had reasonable ground to believe that he might prevail on the matter, or (4) there was other good reason for the failure to admit.

(d) Failure of party to attend at own deposition or serve answers to interrogatories or respond to request for inspection. If a party or an officer, director, or managing agent of a party or a person designated under Rule 30(b)(6) or 31(a) to testify on behalf of a party fails (1) to appear before the person who is to take his deposition, after being served with a proper notice, or (2) to serve answers or objections to interrogatories submitted under Rule 33, after proper service of the interrogatories, or (3) to serve a written response to a request for inspection submitted under Rule 34, after proper service of the request, the court in which the action is pending on motion may make such orders in regard to the failure as are just, and among others it may take any action authorized under paragraphs (A), (B), and (C) of subdivision (b)(2) of this rule. In lieu of any order or in addition thereto, the court shall require the party failing to act to pay the reasonable expenses, including attorney's fees, caused by the failure, unless the court finds that the failure was substantially justified or that other circumstances make an award of expenses unjust.

The failure to act described in this subdivision may not be excused on the ground that the discovery sought is objectionable unless the party failing to act has applied for a protective order as provided by Rule 26(c)."

Sec. 3. G.S. 1A-1, Rule 45(d)(2) is hereby repealed and Rule 41(d)(1) and (e) are hereby rewritten as follows:

"(d) Subpoena for taking depositions; place of examination.

(1) Proof of service of a notice to take a deposition as provided in Rules 30(a) and 31(a) constitutes a sufficient authorization for the issuance by the clerk of the superior court for the county in which the deposition is to be taken of subpoenas for the persons named or described therein. The subpoena may command the person to whom it is directed to produce designated records, books, papers, documents, or tangible things which constitute or contain evidence relating to any of the matters within the scope of the examination permitted by Rule 26(b), but in that event the subpoena will be subject to the provisions of section (c) of Rule 26 and section (c) of this rule.

The person to whom the subpoena is directed may, within 10 days after the service thereof or on or before the time specified in the subpoena for compliance if such time is less than 10 days after service, serve upon the attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials except pursuant to an order of the court from which the subpoena was issued. The party serving the subpoena may, if objection has been made, move upon notice to the deponent for an order at any time before or during the taking of the deposition.

(e) Service. All subpoenas may be served by the sheriff, by his deputy, by a coroner or by any other person not less than 18 years of age, who is not a party. Service of a subpoena for the production of documentary evidence may be made only by the delivery of a copy to the person named therein or by registered or certified mail, return receipt requested. Service of a subpoena for the attendance of a witness may be made by telephone communication with the person named

therein only by a sheriff, his deputy, or a coroner, or by delivery of a copy to the person named therein or by registered or certified mail, return receipt requested, by any person authorized by this subdivision to serve subpoenas. Personal service shall be proved by return of a sheriff, his deputy, or a coroner making service and by return under oath of any other person making service. Service by telephone communication shall be proved by return of the process officer, noting the method of service. Service by registered or certified mail shall be proved by filing the return receipt with the return."

Sec. 4. G.S. 8-84 and 8-89.1 are hereby repealed.

Sec. 5. This act shall become effective on January 1, 1976, and shall apply to pending litigation where such application is feasible and would not work an injustice.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

S. B. 368 **CHAPTER 763**

AN ACT TO PERMIT THE GRANTING OF LIMITED DRIVING PRIVILEGES TO ONE CONVICTED FOR THE FIRST TIME OF A SPEEDING OFFENSE WHICH WOULD OTHERWISE REQUIRE THE MANDATORY SUSPENSION OF THE DRIVER'S LICENSE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-16.1 is rewritten to read as follows:

"§ 20-16.1. *Mandatory suspension of driver's license upon conviction of excessive speeding; limited driving permits for first offenders.*—(a) Notwithstanding any other provisions of this Article, the department shall suspend for a period of 30 days the license of any operator or chauffeur without preliminary hearing on receiving a record of such operator's or chauffeur's conviction of exceeding by more than 15 miles per hour the speed limit, either within or outside the corporate limits of a municipality, if such person was also driving at a speed in excess of 55 miles per hour at the time of the offense.

(b)(1) Upon a first conviction only of violating subsection (a), the trial judge may when feasible allow a limited driving privilege or license to the person convicted for proper purposes reasonably connected with the health, education and welfare of the person convicted and his family. For purposes of determining whether conviction is a first conviction, no prior offense occurring more than 10 years before the date of the current offense shall be considered. The judge may impose upon such limited driving privilege any restrictions as in his discretion are deemed advisable including, but not limited to, conditions of days, hours, types of vehicles, routes, geographical boundaries and specific purposes for which limited driving privilege is allowed. Any such limited driving privilege allowed and restrictions imposed thereon shall be specifically recorded in a written judgment which shall be as near as practical to that hereinafter set forth and shall be signed by the trial judge and shall be affixed with the seal of the court and shall be made a part of the records of the said court. A copy of said judgment shall be transmitted to the Department of Motor Vehicles along with any operator's or chauffeur's license in the possession of the person convicted and a notice of the conviction. Such permit issued hereunder shall be valid for such length of time as shall be set forth in the judgment of the trial judge. Such permit shall constitute a valid license to operate motor vehicles upon the streets

and highways of this or any other state in accordance with the restrictions noted thereon and shall be subject to all provisions of law relating to operator's or chauffeur's license, not by their nature, rendered inapplicable.

(2) The judgment issued by the trial judge as herein permitted shall as near as practical be in form and content as follows:

STATE OF NORTH CAROLINA
COUNTY OF _____

IN THE GENERAL COURT OF JUSTICE
RESTRICTED DRIVING PRIVILEGES

This cause coming on to be heard and being heard before the Honorable_____, Judge presiding, and it appearing to the Court that the defendant, _____, has been convicted of the offense of excessive speeding in violation of G.S. 20-16.1(a), and it further appearing to the court that the defendant should be issued a restrictive driving license and is entitled to the issuance of a restrictive driving privilege under and by the authority of G.S. 20-16.1(b);

Now, therefore, it is ordered, adjudged and decreed that the defendant be allowed to operate a motor vehicle under the following conditions and under no other circumstances.

Name:_____

Race:_____ Sex:_____
Height:_____ Weight:_____
Color of Hair:_____ Color of Eyes:_____
Birth Date:_____
Driver's License Number:_____
Signature of Licensee:_____
Conditions of Restriction:_____

Type of Vehicle:_____
Geographic Restrictions:_____
Hours of Restriction:_____
Other Restrictions:_____
This limited license shall be effective from_____to_____ subject to further orders as the court in its discretion may deem necessary and proper.

This the _____day of_____, 19_____.

_____
(Judge Presiding)

(3) Upon conviction of such offense outside the jurisdiction of this State the person so convicted may apply to the resident judge of the superior court of the district in which he resides for limited driving privileges hereinbefore defined. Upon such application the judge shall have the authority to issue such limited driving privileges in the same manner as if he were the trial judge.

(4) Any violation of the restrictive driving privileges as set forth in the judgment of the trial judge allowing such privileges shall constitute the offense of driving while license has been suspended as set forth in G.S. 20-28. Whenever a person is charged with operating a motor vehicle in violation of the restrictions, the limited driving privilege shall be suspended pending the final disposition of the charge.

(5) This section is supplemental and in addition to existing law and shall not be construed so as to repeal any existing provision contained in the General Statutes of North Carolina.

(c) Upon conviction of a similar second or subsequent offense which offense occurs within one year of the first or prior offense, the license of such operator or chauffeur shall be suspended for 60 days, provided such first or prior offense occurs subsequent to July 1, 1953.

(d) Notwithstanding any other provisions of this Article, the department shall suspend for a period of 60 days the license of any operator or chauffeur without preliminary hearing on receiving a record of such operator's or chauffeur's conviction of having violated the laws against speeding described in subsection (a) and of having violated the laws against reckless driving on the same occasion as the speeding offense occurred.

(e) The provisions of this section shall not prevent the suspension or revocation of a license for a longer period of time where the same may be authorized by other provisions of law.

(f) Operators or chauffeurs whose licenses have been suspended under the provisions of this section shall not be required to maintain proof of financial responsibility upon reissuance of the license solely because of suspension pursuant to this section."

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

S. B. 369 CHAPTER 764

AN ACT TO PROVIDE TAX BENEFITS FOR CAPITAL INVESTMENTS IN RECYCLING AND RESOURCE RECOVERING FACILITIES OR EQUIPMENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-166.18 is amended by adding a new subdivision (3) at the end of subdivision (2) thereof to read as follows:

"(3) Develop and promulgate standards for qualification as a 'recycling or resource recovering facility' or as 'recycling or resource recovering equipment' for the purpose of special tax classifications or treatments, and to certify as qualifying those applicants which meet the established standards. The standards shall be so developed as to qualify only those facilities and equipment exclusively used in the actual resource recovering or recycling process and shall exclude any incidental or supportive facilities and equipment."

Sec. 2. G.S. 105-122(b) as it appears in the 1974 Cumulative Supplement to Volume 2D of the General Statutes is amended by inserting the following at the end of the second sentence of the first paragraph:

"The cost of purchasing and installing equipment or constructing facilities for the purpose of recycling or resource recovering of or from solid waste shall be treated as deductible for the purposes of this section upon condition that the corporation claiming such deductible liability shall furnish to the secretary a certificate from the Department of Human Resources certifying that the Department of Human Resources has found as a fact that the equipment or facility has actually been purchased, installed or constructed, that it is in conformance with all rules and regulations of the Department of Human

Resources, and that recycling or resource recovering is the primary purpose of the facility or equipment."

Sec. 3. G.S. 105-130.10 as it appears in the 1974 Cumulative Supplement to Volume 2D of the General Statutes is amended by rewriting it to read as follows:

"§ 105-130.10. *Amortization of air-cleaning devices, waste treatment facilities and recycling facilities.*—In lieu of any depreciation allowance, at the option of the corporation, a deduction shall be allowed for the amortization, based on a period of 60 months, of the cost of:

(a) any air-cleaning device, sewage or waste treatment plant, including waste lagoons, and pollution abatement equipment purchased or constructed and installed which reduces the amount of air or water pollution resulting from the emission of air contaminants or the discharge of sewage, industrial waste, or other polluting materials or substances into the outdoor atmosphere or streams, lakes, rivers, or coastal waters. The deduction provided herein shall apply also to the facilities or equipment of private or public utilities built and installed primarily for the purpose of providing sewer service to residential and outlying areas. The deduction provided for in this subsection shall be allowed by the Secretary of Revenue only upon the condition that the corporation claiming such allowance shall furnish to the secretary a certificate from the Department of Natural and Economic Resources certifying that the Environmental Management Commission has found as a fact that the air-cleaning device, waste treatment plant, or other pollution abatement equipment purchased or constructed and installed as above described has actually been constructed and installed and that such construction, plant or equipment complies with the requirements of said Environmental Management Commission with respect to such devices, construction, plants or equipment, that such device, plant or equipment is being effectively operated in accordance with the terms and conditions set forth in the permit, certificate of approval, or other document of approval issued by the Environmental Management Commission, and that the primary purpose thereof is to reduce air or water pollution resulting from the emission of air contaminants or the discharge of sewage and waste and not merely incidental to other purposes and functions.

(b) purchasing and installing equipment or constructing facilities for the purpose of recycling or resource recovering of or from solid waste. The deduction provided for in this subsection shall be allowed by the Secretary of Revenue only upon the condition that the corporation claiming such allowance shall furnish to the secretary a certificate from the Department of Human Resources certifying that the Department of Human Resources has found as a fact that the equipment or facility has actually been purchased, installed or constructed, that it is in conformance with all rules and regulations of the Department of Human Resources, and that recycling or resource recovering is the primary purpose of the facility or equipment.

The deduction herein provided for shall also be allowed as to plants or equipment constructed or installed after January 1, 1955, but only with respect to the undepreciated value of such plants or equipment."

Sec. 4. G.S. 105-130.5(b)(6) as it appears in the 1974 Cumulative Supplement of Volume 2D of the General Statutes is amended by inserting the words "and recycling and resource recovering facilities or equipment" following the word "plant" and preceding the word "as" in the second line thereof.

Sec. 5. G.S. 105-147(13) is rewritten to read as follows:

"(13) In lieu of any depreciation allowance pursuant to this section, at the option of the taxpayer, an allowance with respect to the amortization, based on a period of 60 months, of the cost of:

a. Any air-cleaning device, sewage or waste treatment plant, including waste lagoons and pollution abatement equipment purchased or constructed and installed which reduces the amount of air or water pollution resulting from the discharge of sewage and industrial wastes or other polluting materials or substances into streams, lakes, or rivers, or the emission of air contaminants into the outdoor atmosphere. The deduction provided herein shall apply to the facilities or equipment of private or public utilities built and installed primarily for the purpose of providing sewer service to residential and outlying areas. The deduction provided for the items enumerated in this subparagraph shall be allowed by the secretary only upon the condition that the person or firm claiming such allowance shall furnish to the secretary a certificate from the Board of Water and Air Resources certifying that said board has found as a fact that the waste treatment plant, air-cleaning device, or air or water pollution abatement equipment purchased or constructed and installed as above described has actually been constructed and installed and that such plant or equipment complies with the requirements of said board with respect to such plants or equipment, that such plant, device, or equipment is being effectively operated in accordance with the terms and conditions set forth in the permit, certificate of approval, or other document of approval issued by the Board of Water and Air Resources, and that the primary purpose thereof is to reduce air or water pollution resulting from the emission of air contaminants or the discharge of sewage and waste and not merely incidental to other purposes and functions.

b. Purchasing and installing equipment or constructing facilities for the purpose of recycling or resource recovering of or from solid waste. The deduction provided for the items enumerated in this subparagraph shall be allowed by the Secretary of Revenue only upon the condition that the person claiming such allowance shall furnish to the secretary a certificate from the Department of Human Resources certifying that the Department of Human Resources has found as a fact that the equipment or facility has actually been purchased, installed or constructed, that it is in conformance with all rules and regulations of the Department of Human Resources, and that recycling or resource recovering is the primary purpose of the facility or equipment.

The deduction herein provided for shall also be allowed as to plants or equipment constructed or installed before January 1, 1955, but only with respect to the undepreciated value of such plants or equipment."

Sec. 6. G.S. 105-275(8) as it appears in the 1974 Cumulative Supplement of Volume 2D of the General Statutes is amended by:

(1) Designating the current language as paragraph "a." and redesignating subdivisions "a.", "b.", "c.", and "d." as "1.", "2.", "3." and "4.", respectively; and

(2) Adding a new paragraph at the end thereof to read as follows:

"b. Real or personal property that is used or, if under construction, is to be used exclusively for recycling or resource recovering of or from solid waste, if the Department of Human Resources furnishes a certificate to the tax supervisor of the county in which the property is situated stating the Department of Human Resources has found that the described property has been or will be constructed

or installed, complies or will comply with the regulations of the Department of Human Resources, and has, or will have as its primary purpose recycling or resource recovering of or from solid waste."

Sec. 7. This act shall become effective January 1, 1976.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

S. B. 379 CHAPTER 765

AN ACT RELATING TO THE STATUS OF BOARD MEMBERS OF OCCUPATIONAL LICENSING BOARDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 93B-5, as the same appears in 1975 Replacement Volume 2C of the General Statutes, is hereby rewritten to read as follows:

"§ 93B-5. *Compensation and employment of board members.*—(a) Board members shall receive as compensation for their services per diem not to exceed thirty-five dollars ($35.00) for each day during which they are engaged in the official business of the board.

(b) Board members shall be reimbursed for all necessary travel expenses in an amount not to exceed that authorized under G.S. 138-6(a)(1), (2), and (3) for officers and employees of State departments.

(c) Board members shall be reimbursed for convention registration fees not to exceed twenty-five dollars ($25.00) per convention.

(d) Except as provided herein board members shall not be paid a salary or receive any additional compensation for services rendered as members of the board.

(e) Board members shall not be permanent, salaried employees of said board."

Sec. 2. Members of the State Board of Barber Examiners are hereby authorized to continue the performance of their assigned duties until the expiration of the term of their current appointment. Any member hereafter appointed to the board for a full term or an unexpired term shall be subject to the provisions of this act.

Sec. 3. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 4. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

S. B. 408 CHAPTER 766

AN ACT AUTHORIZING THE NORTH CAROLINA MEDICAL CARE COMMISSION TO FINANCE, REFINANCE, CONSTRUCT, PROVIDE AND ACQUIRE AND OTHERWISE UNDERTAKE HEALTH CARE FACILITIES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 143B of the General Statutes of North Carolina is hereby amended by adding thereto a new part to be designated "Part 10A", and to read as follows:

"Health Care Facilities Finance Act.

"§ 143B-168.1. *Short title.*—This Part shall be known, and may be cited, as the 'Health Care Facilities Finance Act'.

"§ 143B-168.2. *Legislative findings.*—It is hereby declared to be the policy of the State of North Carolina to promote the public health and welfare by providing means for financing, refinancing, acquiring, constructing, equipping and providing of health care facilities to serve the people of the State and to make accessible to them modern and efficient health care facilities.

The General Assembly hereby finds and declares that:

(1) there is a need to overcome existing and anticipated physical and technical obsolescence of existing health care facilities and to provide additional, modern and efficient health care facilities in the State; and

(2) unless measures are adopted to alleviate such need, the shortage of such facilities will become increasingly more urgent and serious; and

(3) in order to meet such shortage and thereby promote the public health and welfare of the people of the State, it is necessary for the State to assist in the providing of adequate, modern and efficient health care facilities in the State so that health and hospital care and services may be expanded, improved and fostered to the fullest extent practicable.

The General Assembly hereby further finds and declares that the financing, refinancing, acquiring, constructing, equipping and providing of health care facilities are public uses and public purposes and that enactment of this Part is necessary and proper for effectuating the purposes hereof.

"§ 143B-168.3. *Definitions.*—As used or referred to in this Part, the following words and terms shall have the following meanings, unless the context clearly indicates otherwise:

(1) 'bonds' or 'notes' means the revenue bonds or bond anticipation notes, respectively, authorized to be issued by the Commission under this Part;

(2) 'Commission' means the North Carolina Medical Care Commission, created by Part 10 of Article 3 of Chapter 143B of the General Statutes, or, should said Commission be abolished or otherwise divested of its functions under this Part, the public body succeeding it in its principal functions, or upon which are conferred by law the rights, powers and duties given by this Part to the Commission;

(3) 'cost' as applied to any health care facilities means the cost of construction or acquisition; the cost of acquisition of property, including rights in land and other property, both real and personal and improved and unimproved; the cost of demolishing, removing or relocating any buildings or structures on land so acquired, including the cost of acquiring any land to which such buildings or structures may be moved or relocated; the cost of all machinery, fixed and movable equipment and furnishings; financing charges, interest prior to and during construction and, if deemed advisable by the Commission, for a period not exceeding two years after the estimated date of completion of construction, the cost of engineering and architectural surveys, plans and specifications; the cost of consulting and legal services and other expenses necessary or incident to determining the feasibility or practicability of constructing or acquiring such health care facilities; the cost of administrative and other expenses necessary or incident to the construction or acquisition of such health care facilities, and the financing of the construction or acquisition thereof, including reasonable provision for working capital and a reserve for debt service; the cost of

reimbursing any public or non-profit agency for any payments made for any cost described above or the refinancing of any cost described above, provided that no payment shall be reimbursed or any cost be refinanced if such payment was made or such cost was incurred earlier than two years prior to the effective date of this Part; provided further, that it is the intent that any costs described above shall be payable solely from the revenues of the health care facilities;

(4) 'health care facilities' means any one or more buildings, structures, additions, extensions, improvements or other facilities, whether or not located on the same site or sites, machinery, equipment, furnishings or other real or personal property suitable for health care or medical care; and includes, without limitation, general hospitals, chronic diseases, maternity, mental, tuberculosis and other specialized hospitals; facilities for intensive care and self-care; clinics and outpatient facilities; clinical, pathological and other laboratories; health care research facilities; laundries; training facilities for nurses, interns, physicians and other staff members; food preparation and food service facilities; administration buildings, central service and other administrative facilities; communication, computer and other electronic facilities, firefighting facilities, pharmaceutical and recreational facilities; storage space, x-ray, laser, radiotherapy and other apparatus and equipment; dispensaries; utilities; vehicular parking lots and garages; office facilities for health care facilities staff members and physicians; and such other health care facilities customarily under the jurisdiction of or provided by hospitals, or any combination of the foregoing, with all necessary, convenient or related interests in land, machinery, apparatus, appliances, equipment, furnishings, appurtenances, site preparation, landscaping and physical amenities;

(5) 'non-profit agency' means any non-profit private corporation existing or hereafter created and empowered to acquire, by lease or otherwise, operate or maintain health care facilities;

(6) 'public agency' means any county, city, town, hospital district or other political subdivision of the State existing or hereafter created pursuant to the laws of the State authorized to acquire, by lease or otherwise, operate or maintain health care facilities; and

(7) 'State' means the State of North Carolina.

"§ 143B-168.4. *Additional powers.*—The Commission shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this Part, including, but without limiting the generality of the foregoing, the power:

(1) to make and execute contracts and agreements necessary or incidental to the exercise of its powers and duties under this Part, including agreements of sale or lease with, and mortgages and conveyances to public and non-profit agencies, persons, firms, corporations, governmental agencies and others;

(2) to acquire by purchase, the exercise of the power of eminent domain but only in connection with a financing for a public agency, lease, gift or otherwise, or to obtain options for the acquisition of, any property, real or personal, improved or unimproved, including interests in land in fee or less than fee for any health care facilities, upon such terms and at such cost as shall be agreed upon by the owner and the Commission;

(3) to arrange or contract with any county, city, town or other political subdivision or instrumentality of the State for the opening or closing of streets or for the furnishing of utility or other services to any health care facilities;

(4) to sell, convey, lease as lessor, mortgage, exchange, transfer, or otherwise dispose of, or to grant options for any such purposes with respect to, any real or personal property or interest therein;

(5) to pledge or assign any money, purchase price payments, rents, charges, fees or other revenues and any proceeds derived by the Commission from sales of property, insurance, condemnation awards or other sources;

(6) to pledge or assign the revenues and receipts from any health care facilities and any agreement of sale or lease or the purchase price payments, rent and income received thereunder;

(7) to borrow money as herein provided to carry out and effectuate its corporate purposes and to issue in evidence thereof bonds and notes for the purpose of providing funds to pay all or any part of the cost of any health care facilities and to issue revenue refunding bonds;

(8) to finance, acquire, construct, equip, provide, operate, own, repair, maintain, extend, improve, rehabilitate, renovate and furnish any health care facilities and to pay all or any part of the cost thereof from the proceeds of bonds or notes or from any contribution, gift or donation or other funds available to the Commission for such purpose;

(9) to fix, revise, charge and collect or cause to be fixed, revised, charged and collected purchase price payments, rents, fees, professional contracts, and charges for the use of, or services rendered by, any health care facilities;

(10) to employ fiscal consultants, consulting engineers, architects, attorneys, health care consultants, appraisers and such other consultants and employees as may be required in the judgment of the Commission and to fix and pay their compensation from funds available to the Commission therefor;

(11) to conduct studies and surveys respecting the need for health care facilities and their location, financing and construction;

(12) to apply for, accept, receive and agree to and comply with the terms and conditions governing grants, loans, advances, contributions, interest subsidies and other aid with respect to health care facilities from federal and State agencies or instrumentalities and to accept, receive and agree to and comply with the terms and conditions governing payments under any health insurance programs; and

(13) to sue and be sued in its own name, plead and be impleaded.

"§ 143B-168.5. *Criteria and requirements.*—In undertaking any health care facilities pursuant to this Part, the Commission shall be guided by and shall observe the following criteria and requirements; provided that the determination of the Commission as to its compliance with such criteria and requirements shall be final and conclusive:

(1) there is a need for the health care facilities in the area in which the health care facilities are to be located;

(2) no health care facilities shall be sold or leased to any public or non-profit agency which is not financially responsible and capable of fulfilling its obligations including its obligations under an agreement of sale or lease, to make purchase price payments, to pay rent, to operate, repair and maintain at its own expense the health care facilities and to discharge such other responsibilities as may be imposed under the agreement of sale or lease;

(3) adequate provision shall be made for the payment of the principal of and the interest on the bonds and any necessary reserves therefor and for the

operation, repair and maintenance of the health care facilities at the expense of the public or non-profit agency; and

(4) the public facilities, including utilities, and public services necessary for the health care facilities will be made available.

"§ 143B-168.6. *Additional powers of public agencies.*—For the purposes of this Part, public agencies are authorized and empowered to enter into contracts and agreements, including agreements of sale or lease, with the Commission to facilitate the financing, acquiring, constructing, equipping, providing, operating and maintaining of health care facilities and pursuant to any such agreement of sale or lease to operate, repair and maintain any health care facilities and subject to the provisions of G.S. 143B-168.8 of this Part to pay the cost thereof and the purchase price payments or rent therefor from any funds available for such purposes.

"§ 143-168.7. *Procedural requirements.*—In addition to health care facilities initiated by the Commission, any public or non-profit agency may submit to the Commission, and the Commission may consider a proposal for financing health care facilities using such forms and following such instructions as may be prescribed by the Commission. Such proposal shall set forth the type and location of the health care facilities and may include other information and data available to the public or non-profit agency respecting the health care facilities and the extent to which such health care facilities conform to the criteria and requirements set forth in this Part. The Commission may request the public or non-profit agency to provide additional information and data respecting the health care facilities. The Commission is authorized to make or cause to be made such investigations, surveys, studies, reports and reviews as in its judgment are necessary and desirable to determine the feasibility and desirability of the health care facilities, the extent to which the health care facilities will contribute to the health and welfare of the area in which they will be located, the powers, experience, background, financial condition, record of service and capability of the management of the public or non-profit agency, the extent to which the health care facilities otherwise conform to the criteria and requirements of this Part, and such other factors as may be deemed relevant or convenient in carrying out the purposes of this Part.

"§ 143B-168.8. *Operation of health care facilities; agreements of sale or lease; conveyance of interest in health care facilities.*—All health care facilities shall be operated to serve and benefit the public and there shall be no discrimination against any person based on race, creed, color or national origin.

The Commission may sell or lease any health care facilities to a public or non-profit agency for operation and maintenance in such manner as shall effectuate the purposes of this Part, under an agreement of sale or lease in form and substance not inconsistent herewith. Any such agreement of sale or lease may include provisions that:

(1) the public or non-profit agency shall, at its own expense, operate, repair and maintain the health care facilities sold or leased thereunder;

(2) the purchase price payments to be made under the agreement of sale or the rent payable under the agreement of lease shall in the aggregate be not less than an amount sufficient to pay all of the interest, principal and any redemption premium on the bonds or notes issued by the Commission to pay the cost of the health care facilities sold or leased thereunder;

(3) the public or non-profit agency shall pay all other costs incurred by the Commission in connection with the providing of the health care facilities so sold or leased, except such costs as may be paid out of the proceeds of bonds or notes or otherwise, including, but without limitation, insurance costs, the cost of administering the resolution authorizing the issuance of, or any trust agreement securing, such bonds or notes and the fees and expenses of trustees, paying agents, attorneys, consultants and others;

(4) the agreement of sale or lease shall terminate not earlier than the date on which all such bonds and all other obligations incurred by the Commission in connection with the health care facilities sold or leased thereunder shall be retired or provision for such retirement shall be made; and

(5) the obligation of the public or non-profit agency to make purchase price payments or to pay rent shall not be subject to cancellation, termination or abatement by the public or non-profit agency until the bonds have been retired or provision has been made for such retirement.

All obligations payable by a public agency under an agreement of sale or lease, including the obligation to make purchase price payments or to pay rent and to pay the costs of operating, repairing and maintaining health care facilities, shall be payable solely from the revenues of the health care facilities being purchased or leased or other health care facilities of the public agency and shall not be payable from or charged upon any funds of the public agency other than the revenues pledged to such payment; provided, however, that nothing herein shall restrict the power of any county, city, town or other political subdivision of the State or any hospital district created pursuant to Article 13C of Chapter 131 of the General Statutes to submit to its qualified voters a health care facility maintenance tax under Article 13B of said Chapter 131 for the purposes of financing the cost of operation, equipment and maintenance of any health care facility financed for any public agency under this Part and all health care facilities authorized to be financed under this Part and leased to public agencies are hereby declared to be included within the definition 'hospital facility' as used in said Article 13B.

Where the Commission has acquired a possessory or ownership interest in any health care facilities which it has undertaken on behalf of a public or non-profit agency it shall promptly convey, without the payment of any consideration, all its right, title and interest in such health care facilities to such public or non-profit agency upon the retirement or provision for the retirement of all bonds or notes issued and obligations incurred by the Commission in connection with such health care facilities.

"§ 143B-168.9. *Construction contracts.*—Contracts for the construction of any health care facilities on behalf of a public agency shall be awarded by the Commission in accordance with Article 8 of Chapter 143 of the General Statutes. If the Commission shall determine that the purposes of this Part will be more effectively served, the Commission in its discretion may award or cause to be awarded contracts for the construction of any health care facilities on behalf of a non-profit agency upon a negotiated basis as determined by the Commission. The Commission shall prescribe such bid security requirements and other procedures in connection with the award of such contracts as in its judgment shall protect the public interest. The Commission may by written contract engage the services of the public or non-profit agency in the construction of such health care facilities and may provide in such contract that

such public or non-profit agency, subject to such conditions and requirements consistent with the provisions of this Part as shall be prescribed in such contract, may act as an agent of, or an independent contractor for, the Commission for the performance of the functions described therein, including the acquisition of the site and other real property for such health care facilities, the preparation of plans, specifications and contract documents, the award of construction and other contracts upon a competitive or negotiated basis, the construction of such health care facilities directly by such public or non-profit agency, the inspection and supervision of construction, the employment of engineers, architects, builders and other contractors and the provision of money to pay the cost thereof pending reimbursement by the Commission. Any such contract may provide that the Commission may, out of proceeds of bonds or notes, make advances to or reimburse the public or non-profit agency for its costs incurred in the performance of such functions, and shall set forth the supporting documents required to be submitted to the Commission and the reviews, examinations and audits that shall be required in connection therewith to assure compliance with the provisions of this Part and such contract.

"§ 143B-168.10. *Credit of State not pledged.*—Bonds or notes issued under the provisions of this Part shall not be secured by a pledge of the faith and credit of the State or of any political subdivision thereof or be deemed to create an indebtedness of the State or of any such political subdivision thereof, requiring any voter approval, but shall be payable solely from the revenues and other funds provided therefor. Each bond or note issued under this Part shall contain on the face thereof a statement to the effect that the Commission shall not be obligated to pay the same nor the interest thereon except from the revenues and other funds pledged therefor and that neither the faith and credit nor the taxing power of the State or of any political subdivision thereof is pledged as security for the payment of the principal of or the interest on such bond or note.

Expenses incurred by the Commission in carrying out the provisions of this Part may be made payable from funds provided pursuant to, or made available for use under, this Part and no liability shall be incurred by the Commission hereunder beyond the extent to which moneys shall have been so provided.

"§ 143B-168.11. *Bonds and notes.*—The Commission is hereby authorized to provide for the issuance, at one time or from time to time, of bonds, or notes in anticipation of the issuance of bonds, of the Commission to carry out and effectuate its corporate purposes. The principal of and the interest on such bonds or notes shall be payable solely from funds provided under this Part for such payment. Any such notes may be made payable from the proceeds of bonds or renewal notes or, in the event bond or renewal note proceeds are not available, such notes may be paid from any available revenues or other funds provided therefor. The bonds or notes of each issue shall be dated and may be made redeemable before maturity at the option of the Commission at such price or prices and upon such terms and conditions as may be determined by the Commission. Any such bonds or notes shall bear interest at such rate or rates as may be determined by the Local Government Commission of North Carolina with the approval of the Commission. Notes shall mature at such time or times not exceeding 10 years from their date or dates and bonds shall mature at such time or times not exceeding 40 years from their date or dates, as may be determined by the Commission. The Commission shall determine the form and manner of execution of the bonds or notes, including any interest coupons to be

attached thereto, and shall fix the denomination or denominations and the place or places of payment of principal and interest, which may be any bank or turst company within or without the State. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or notes or coupons attached thereto shall cease to be such officer before the delivery thereof, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. The Commission may also provide for the authentication of the bonds or notes by a trustee or fiscal agent. The bonds or notes may be issued in coupon or in registered form, or both, as the Commission may determine, and provision may be made for the registration of any coupon bonds or notes as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds or notes of any bonds or notes registered as to both principal and interest, and for the interchange of registered and coupon bonds or notes. No bonds or notes may be issued by the Commission under this Article unless the issuance thereof is approved by the Local Government Commission of North Carolina.

The Commission shall file with the Secretary of the Local Government Commission an application requesting approval of the issuance of such bonds or notes which shall contain such information and have attached to it such documents concerning the proposed financing and prospective vendee or lessee as the Secretary may require.

In determining whether a proposed bond or note issue should be approved, the Local Government Commission may consider, in addition to the criteria and requirements mentioned in G.S. 143B-168.5 of this Part, the effect of the proposed financing upon any scheduled or proposed sale of tax-exempt obligations by the State or any of its agencies or departments or by any unit of local government in the State.

The Local Government Commission shall approve the issuance of such bonds or notes if, upon the information and evidence it receives, it finds and determines that the proposed financing will effectuate the purposes of this Part.

Upon the filing with the Local Government Commission of a resolution of the Commission requesting that its bonds or notes be sold, such bonds or notes may be sold in such manner, either at public or private sale, and for such price as the Local Government Commission shall determine to be for the best interests of the Commission and effectuate best the purposes of this Part, provided that such sale shall be approved by the Commission.

The proceeds of any bonds or notes shall be used solely for the purposes for which issued and shall be disbursed in such manner and under such restrictions, if any, as the Commission may provide in the resolution authorizing the issuance of, or any trust agreement securing, such bonds or notes.

Prior to the preparation of definitive bonds, the Commission may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds, when such bonds shall have been executed and are available for delivery. The Commission may also provide for the replacement of any bonds or notes which shall become mutilated or shall be destroyed or lost.

Bonds or notes may be issued under the provisions of this Part without obtaining, except as otherwise expressly provided in this Part, the consent of any department, division, commission, board, body, bureau or agency of the State, and without any other proceedings or the happening of any conditions or things

other than those proceedings, conditions or things which are specifically required by this Part and the provisions of the resolution authorizing the issuance of, or any trust agreement securing, such bonds or notes.

"§ 143B-168.12. *Trust agreement or resolution.*—In the discretion of the Commission any bonds or notes issued under the provisions of this Part may be secured by a trust agreement by and between the Commission and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the State. Such trust agreement or the resolution authorizing the issuance of such bonds or notes may pledge or assign all or any part of the revenues of the Commission received pursuant to this Part, including, without limitation, fees, purchase price payments, rents, charges, insurance proceeds, condemnation awards and any other revenues and funds received in connection with any health care facilities and may mortgage any health care facilities. Such trust agreement or resolution may contain such provisions for protecting and enforcing the rights and remedies of the holders of any such bonds or notes as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the Commission in relation to the purposes to which bond or note proceeds may be applied, the disposition or pledging of the revenues of the Commission, the duties of the Commission with respect to the acquisition, construction, maintenance, repair and operation of any health care facilities, the fees, purchase price payments, rents and charges to be fixed and collected in connection therewith, the terms and conditions for the issuance of additional bonds or notes, and the custody, safeguarding and application of all moneys. All bonds issued under this Part shall be equally and ratably secured by a pledge, charge, and lien upon revenues provided for in such trust agreement or resolution, without priority by reason of number, or of dates of bonds, execution, or delivery, in accordance with the provisions of this Part and of such trust agreement or resolution; except that the Commission may provide in such trust agreement or resolution that bonds issued pursuant thereto shall to the extent and in the manner prescribed in such trust agreement or resolution be subordinated and junior in standing, with respect to the payment of principal and interest and the security thereof, to any other bonds. It shall be lawful for any bank or trust company incorporated under the laws of the State which may act as depositary of the proceeds of bonds or notes, revenues or other money hereunder to furnish such indemnifying bonds or to pledge such securities as may be required by the Commission. Any such trust agreement or resolution may set forth the rights and remedies, including foreclosure of any mortgage, of the holders of any bonds or notes and of the trustee, and may restrict the individual right of action by any such holders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the Commission may deem reasonable and proper for the security of the holders of any bonds or notes. Expenses incurred in carrying out the provisions of such trust agreement or resolution may be treated as a part of the cost of any health care facilities or paid from the revenues pledged or assigned to the payment of the principal of and the interest on bonds or notes or from any other funds available to the Commission.

"§ 143B-168.13. *Revenues; pledges of revenues.*—(a) The Commission is hereby authorized to fix and to collect fees, purchase price payments, rents and charges for the use of any health care facilities, and any part or section thereof, and to contract with any public or non-profit agency for the use thereof. The

Commission may require that the public or non-profit agency shall operate, repair or maintain such facilities and shall bear the cost thereof and other costs of the Commission in connection therewith, subject to the provisions of G.S. 143B-168.8 of this Part with respect to a public agency, as may be provided in the agreement of sale or lease or other contract with the Commission, in addition to other obligations imposed under such agreement or contract.

(b) The fees, purchase price payments, rents and charges shall be fixed so as to provide a fund sufficient, with such other funds as may be made available therefor, (1) to pay the costs of operating, repairing and maintaining the health care facilities, to the extent that adequate provision for the payment of such costs has not otherwise been provided for, (2) to pay the principal of and the interest on all bonds or notes as the same shall become due and payable and (3) to create and maintain any reserves provided for in the resolution authorizing the issuance of, or any trust agreement securing, such bonds; and such fees, purchase price payments, rents and charges may be applied or pledged to the payment of debt service on the bonds prior to the payment of the costs of operating, repairing and maintaining the health care facilities.

(c) All pledges of fees, purchase price payments, rents, charges and other revenues under the provisions of this Part shall be valid and binding from the time when such pledges are made. All such revenues so pledged and thereafter received by the Commission shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Commission, irrespective of whether such parties have notice thereof. The resolution or any trust agreement by which a pledge is created or any agreement of sale or lease need not be filed or recorded except in the records of the Commission.

(d) The State of North Carolina does pledge to and agree with the holders of any bonds or notes issued by the Commission that so long as any of such bonds or notes are outstanding and unpaid the State will not limit or alter the rights vested in the Commission at the time of issuance of the bonds or notes to fix, revise, charge, and collect or cause to be fixed, revised, charged and collected purchase price payments, rents, fees and charges for the use of or services rendered by any health care facilities, in connection with which the bonds or notes were issued, so as to provide a fund sufficient, with such other funds as may be made available therefor, to pay the costs of operating, repairing and maintaining the health care facilities, to pay the principal of and the interest on all bonds and notes as the same shall become due and payable and to create and maintain any reserves provided therefor and to fulfill the terms of any agreements made with the bondholders or noteholders, nor will the State in any way impair the rights and remedies of the bondholders or noteholders until the bonds or notes and all costs and expenses in connection with any action or proceedings by or on behalf of the bondholders or noteholders, are fully paid, met, and discharged.

"§ 143B-168.14. *Trust funds.*—Notwithstanding any other provisions of law to the contrary, all moneys received pursuant to the authority of this Part, including, without limitation, fees, purchase price payments, rents, charges, insurance proceeds, condemnation awards and any other revenues and funds received in connection with any health care facilities, shall be deemed to be trust funds to be held and applied solely as provided in this Part. The resolution

authorizing the issuance of, or any trust agreement securing, any bonds or notes may provide that any of such moneys may be temporarily invested pending the disbursement thereof and shall provide that any officer with whom, or any bank or trust company with which, such moneys shall be deposited shall act as trustee of such moneys and shall hold and apply the same for the purposes of this Part, subject to such regulations as this Part and such resolution or trust agreement may provide. Any such moneys may be invested as provided in G.S. 159-30, as it may be amended from time to time.

"§ 143B-168.15. *Remedies.*—Any holder of bonds or notes issued under the provisions of this Part or any coupons appertaining thereto, and the trustee under any trust agreement or resolution authorizing the issuance of such bonds or notes, except to the extent the rights herein given may be restricted by such trust agreement or resolution, may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights under the laws of the State or granted hereunder or under such trust agreement or resolution, or under any other contract executed by the Commission pursuant to this Part, and may enforce and compel the performance of all duties required by this Part or by such trust agreement or resolution to be performed by the Commission or by any officer thereof.

"§ 143B-168.16. *Negotiable instruments.*—All bonds and interest coupons appertaining thereto issued under this Part are hereby made investment securities within the meaning of and for all the purposes of Article 8 of the Uniform Commercial Code as enacted in this State, whether or not they are of such form and character as to be investment securities under said Article 8, subject only to the provisions of the bonds pertaining to registration.

"§ 143B-168.17. *Bonds or notes eligible for investment.*—Bonds or notes issued under the provisions of this Part are hereby made securities in which all public officers and public bodies of the State and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, adminstrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds or notes are hereby made securities which may properly and legally be deposited with and received by any State or municipal officer or any agency or political subdivision of the State for any purpose for which the deposit of bonds, notes or obligations of the State is now or may hereafter be authorized by law.

"§ 143B-168.18. *Refunding bonds or notes.*—The Commission is hereby authorized to provide for the issuance of refunding bonds or notes for the purpose of refunding any bonds or notes then outstanding which shall have been issued under the provisions of this Part, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds or notes and, if deemed advisable by the Commission, for any corporate purpose of the Commission, including, without limitation:

(1) constructing improvements, additions, extensions or enlargements of the health care facilities in connection with which the bonds or notes to be refunded shall have been issued, and

(2) paying all or any part of the cost of any additional health care facilities.

The issuance of such bonds or notes, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties and obligations of the

Commission in respect of the same shall be governed by the provisions of this Part which relate to the issuance of bonds or notes, insofar as such provisions may be appropriate therefor.

Refunding bonds or notes may be sold or exchanged for outstanding bonds or notes issued under this Part and, if sold, the proceeds thereof may be applied, in addition to any other authorized purposes, to the purchase, redemption or payment of such refunding bonds or notes, with any other available funds, to the payment of the principal, accrued interest and any redemption premium on the bonds or notes being refunded, and, if so provided or permitted in the resolution authorizing the issuance of, or in the trust agreement securing, such bonds or notes, to the payment of any interest on such refunding bonds or notes and any expenses in connection with such refunding, such proceeds may be invested in direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by, the United States of America which shall mature or which shall be subject to redemption by the holders thereof, at the option of such holders, not later than the respective dates when the proceeds, together with the interest accruing thereon, will be required for the purposes intended.

"§ 143B-168.19. *Annual report.*—The Commission shall, promptly following the close of each fiscal year, submit an annual report of its activities under this Part for the preceding year to the Governor, the State Auditor, the Secretary of Human Resources, the General Assembly, the Advisory Budget Commission and the Local Government Commission. The Commission shall cause an audit of its books and accounts relating to its activities under this Part to be made at least once in each year by an independent certified public accountant and the cost thereof may be paid from any available moneys of the Commission.

"§ 143B-168.20. *Officers not liable.*—No member or officer of the Commission shall be subject to any personal liability or accountability by reason of his execution of any bonds or notes or the issuance thereof.

"§ 143B-168.21. *Tax exemption.*—The exercise of the powers granted by this Part will be in all respects for the benefit of the people of the State and will promote their health and welfare, and no tax or assessment shall be levied upon any health care facilities undertaken by the Commission prior to the retirement or provision for the retirement of all bonds or notes issued and obligations incurred by the Commission in connection with such health care facilities.

Any bonds or notes issued by the Commission under the provisions of this Part, their transfer and the income therefrom (including any profit made on the sale thereof), shall at all times be free from taxation by the State or any local unit or political subdivision or other instrumentality of the State, excepting inheritance or gift taxes.

"§ 143B-168.22. *Conflict of interest.*—If any member, officer or employee of the Commission shall be interested either directly or indirectly, or shall be an officer or employee of or have an ownership interest in any firm or corporation interested directly or indirectly in any contract with the Commission, such interest shall be disclosed to the Commission and shall be set forth in the minutes of the Commission, and the member, officer or employee having such interest therein shall not participate on behalf of the Commission in the authorization of any such contract.

"§ 143B-168.23. *Additional method.*—The foregoing sections of this Part shall be deemed to provide an additional and alternative method for the doing of

the things authorized thereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing; provided, however, that the issuance of bonds or notes under the provisions of this Part need not comply with the requirements of any other law applicable to the issuance of bonds or notes.

"§ 143B-168.24. *Liberal construction.*—This Part, being necessary for the health and welfare of the people of the State, shall be liberally construed to effect the purposes thereof.

"§ 143B-168.25. *Inconsistent laws inapplicable.*—Insofar as the provisions of this Part are inconsistent with the provisions of any general or special laws, or parts thereof, the provisions of this Part shall be controlling."

Sec. 2. The provisions of this act are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

Sec. 3. This act shall become effective upon certification by the State Board of Elections that an amendment to the North Carolina Constitution authorizing the enactment of general laws dealing with the transactions of the type contemplated by this Act has been approved by the people of the State.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

S. B. 757 CHAPTER 767

AN ACT AUTHORIZING THE REGISTRATION OF VEHICLES ON AN APPORTIONMENT BASIS.

The General Assembly of North Carolina enacts:

Section 1. Subsection (a) of G.S. 20-50 is hereby amended by deleting from line 12 thereof the word "common" both times that it appears in said line.

Sec. 2. Chapter 20 of the General Statutes is hereby amended by adding a new Section 20-86.1 to read as follows:

"(a) The registration fees required under this Article may be proportioned for vehicles which qualify and are licensed under the provisions of the International Registration Plan.

(b) Notwithstanding any other provisions of this Chapter, the Commissioner, is hereby authorized to promulgate and enforce such rules and regulations as may be necessary to carry out the provisions of any agreement entered pursuant to the International Registration Plan."

Sec. 3. G.S. 20-91 is hereby amended as follows:

(1) By rewriting subsection (a) to read as follows:

"(a) Every common carrier of passengers and common carrier of property shall keep a record of all business transacted and all revenue received on such forms as may be prescribed by or satisfactory to the Commissioner.

Any owner or lessee applying for proportional registration of vehicles shall maintain records of the total number of miles operated by such vehicles in all jurisdictions during the preceding year and the total number of miles operated in this State during the preceding year. As used in this section, 'preceding year' shall mean a period of 12 consecutive months fixed by the Department, which is within 16 months immediately preceding the commencement of the registration or license year in which proportional registration is sought.

All records required by this section shall be preserved for a period of three years, and shall at all times during the business hours of the day be subject to inspection by the Commissioner or his deputies or such other agents as may be duly authorized by the Commissioner. Any owner or lessee failing to comply with or violating any of the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be fined or imprisoned in the discretion of the court."

(2) By striking from line 1 of subsection (d) the words "common carrier of passengers or common carrier of property" and inserting in lieu thereof the words "carrier of passengers or property".

(3) By striking from line 11 of subsection (d) the words "common carrier of property or common carrier of passengers" and inserting in lieu thereof the words "carrier of passengers or property".

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

S. B. 760 **CHAPTER 768**

AN ACT TO REGULATE CEMETERIES OPERATED FOR PRIVATE GAIN.

The General Assembly of North Carolina enacts:

Section 1. Article 7 of Chapter 65 of the General Statutes is hereby rewritten to read as follows:

"§ 65-18. *Short title.*—This Article 7 may be cited as 'North Carolina Cemetery Act'.

"§ 65-19. *Scope.*—(1) The provisions of this Article shall apply to all persons engaged in the business of operating a cemetery as defined herein, except cemeteries owned and operated by governmental agencies or churches.

(2) Any cemetery beneficially owned and operated by a fraternal organization or its corporate agent for at least 50 years prior to the effective date of this Article shall be exempt from the provisions of Article 7 of this Chapter.

"§ 65-20. *Definitions; North Carolina Cemetery Act.*—As used in this Article, unless otherwise stated or unless the context or subject matter clearly indicates otherwise:

(1) 'Person' means an individual, corporation, partnership, joint venture, or association.

(2) 'Human remains' or 'remains' means the bodies of deceased persons, and includes the bodies in any stage of decomposition, and cremated remains.

(3) 'Cemetery' means any one or a combination of more than one of the following in a place used or to be used and dedicated or designated for cemetery purposes:

(a) A burial park, for earth interment.

(b) A mausoleum.

(c) A columbarium.

(4) 'Mausoleum' means a structure or building substantially exposed aboveground intended to be used for the entombment of remains of a deceased person.

(5) 'Columbarium' means a structure or building substantially exposed aboveground intended to be used for the interment of the cremated remains of a deceased person.

(6) 'Cemetery company' means any legal entity that owns or controls cemetery lands or property and conducts the business of a cemetery, including all cemeteries owned and operated by governmental agencies, churches and fraternal organizations or their corporate agents for the duration of any sales and management contracts entered into with cemetery sales organizations or cemetery management organizations for cemetery purposes, or with any other legal entity other than direct employees of said governmental agency, church or fraternal organization.

(7) 'Grave space' means a space of ground in a cemetery intended to be used for the interment in the ground of the remains of a deceased person.

(8) 'Commission' means the North Carolina Cemetery Commission.

(9) 'Cemetery sales organization' means any legal entity contracting as an independent contractor with a cemetery company to conduct sales of cemetery products, but does not mean individual salesmen or sales managers employed by and contracting directly with cemetery companies operating under this act, nor does it mean funeral establishments or funeral directors operating under licenses authorized by G.S. 90-210.10 when dealing directly with a cemetery company and with members of the family of a deceased person or other persons authorized by law to arrange for the burial and funeral of such deceased human being or with an individual negotiating the sale of cemetery property as a part of his or her pre-need arrangements under G.S. 65-36.1 through G.S. 65-36.8.

(10) 'Cemetery management organization' means any legal entity contracting as an independent contractor with a cemetery company to manage a cemetery but does not mean individual managers employed by and contracting directly with cemetery companies operating under this act.

(11) 'Cemetery broker' means a legal entity engaged in the business of arranging sales of cemetery products between legal entities and which sale does not involve a cemetery company, but does not mean funeral establishments or funeral directors operating under G.S. 90-210.10, when dealing between legal entities wherein one such entity shall be members of the family of a deceased person or other persons authorized by law to arrange for the burial and funeral of such deceased human being or shall be an individual negotiating the sale of cemetery property as a part of his or her pre-need arrangements under G.S. 65-36.1 through G.S. 65-36.8. The North Carolina Cemetery Act shall not apply to any cemetery broker selling less than five grave spaces per year.

(12) 'Belowground crypts' consists of an interment space in pre-placed chambers, either side by side or multiple depth, covered by earth and sod and are also known as lawn crypts, westminsters or turf top crypts.

(12 1/2) 'Vault' means a crypt or underground receptacle which is used for interment in the ground and which is designed to encase and protect caskets or similar burial devices. For the purposes of this act, a vault is a pre-need item until delivery to the purchaser.

(13) 'Bank of belowground crypts' means any construction unit of belowground crypts acceptable to the commission which a cemetery uses to initiate its belowground crypt program or to add to existing belowground crypt structures.

(14) 'Mausoleum section' means any construction unit of a mausoleum acceptable to the commission which a cemetery uses to initiate its mausoleum program or to add to its existing mausoleum structures.

"§ 65-21. *The North Carolina Cemetery Commission.*—There is hereby established in the Department of Commerce a North Carolina Cemetery Commission with the power and duty to adopt rules and regulations to be followed in the enforcement of this Article.

"§ 65-21.1. *Cemetery Commission: members, selection, quorum.*—The Cemetery Commission shall consist of seven members appointed by the Governor. Two members shall be owners or managers of cemeteries in North Carolina. Three members shall be selected from six nominees submitted by the North Carolina Cemetery Association. Two members shall be public members who have no financial interest in, and are not involved in management of, any cemetery or funeral related business. Four members of the initial commission shall be appointed for a term to expire June 30, 1977, and three members shall be appointed for a term to expire June 30, 1976. At the end of the respective terms of office of the initial members of the commission, their successors shall be nominated in the same manner, selected from the same categories and appointed for terms of four years and until their successors are appointed and qualified. Any appointment to fill a vacancy on the commission created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the commission from office for misfeasance, malfeasance and nonfeasance according to the provisions of Section 13 of the Executive Organization Act of 1973.

A majority of the commission shall constitute a quorum for the transaction of business.

At the first meeting of the commission held after the effective date of this act, the commission shall elect one of its members as its chairman and another as its vice-chairman, both to serve through June 30 of the next following year. Thereafter, at its first meeting held on or after July 1 of each year, the commission shall elect from its members a chairman and vice-chairman to serve through June 30 of the next following year.

"§ 65-21.2. *Principal office.*—The principal office of the commission shall be in the City of Raleigh, North Carolina. Notice of all regular and special meetings of the commission shall be advertised 10 or more days in advance in at least three newspapers in North Carolina having inter-county circulation in the State. Each member of the commission shall receive per diem and allowances in accordance with G.S. 138-5. The administrator of the commission, other employees required to attend and legal counsel to the commission shall be entitled to actual expenses while attending regular or special meetings of the commission held other than in Raleigh, North Carolina. All expenses of the commission shall be paid from funds coming to the commission pursuant to this Article.

"§ 65-21.3. *Regular and special meetings.*—The Cemetery Commission shall meet at least once in each quarter and may hold special meetings at any time and place within the State at the call of the chairman or upon the written request of at least four members.

"§ 65-21.4. *Powers.*—In addition to other powers conferred by this act, the Cemetery Commission shall have the following powers and duties:

(a) The administrator shall be appointed by the Governor upon recommendation of the Cemetery Commission. The Cemetery Commission shall set the compensation of the administrator and such other personnel as are necessary to operate the commission.

(b) Prior to the change of control of any cemetery company, an examination of the licensee's records may be required, and if so, the fees provided in subsection (c) hereof would apply thereto.

(c) Investigate, upon its own initiative, or upon a verified complaint in writing, the actions of any person engaged in the business or acting in the capacity of a licensee under this Article. The license of a licensee may be revoked or suspended for a period not exceeding two years, or until compliance with a lawful order imposed in the final order of suspension, or both, upon a finding of fact showing that the licensee has either failed to:

(1) Pay the fees required herein;

(2) Make any reports required by this act;

(3) Remit to the care and maintenance fund the required amounts; or

(4) Abide by any other regulations promulgated by the commission.

(d) In all proceedings under this Article for the revocation or suspension of licenses, the provisions of Chapter 150 of the General Statutes shall be applicable.

(e) At such time as the commission finds it necessary it may bring an action in the name of the State in the court of the county in which the licensed place of business is located against such person to enjoin such person from engaging in or continuing such violation or doing any act or acts in furtherance thereof. In any such action, an order or judgment may be entered awarding such temporary or permanent injunction as may be deemed proper; provided, that before any such action is brought the commission shall give the cemetery at least 20 days' notice in writing, stating the alleged violation and giving the cemetery an opportunity within the 20-day period to cure the violation. In addition to all other means provided by law for the enforcement of a temporary restraining order, temporary injunction, or permanent injunction, the court shall have the power and jurisdiction to impound and to appoint a receiver for the property and business of the defendant, including books, papers, documents, and records appertaining thereto or so much thereof as the court may deem reasonably necessary to prevent further violation of this Article through or by means of the use of said property and business. The commission may institute proceedings against the cemetery or its officers, where after an examination, pursuant to this Article, a shortage in the care and maintenance trust fund is discovered, to recover said shortage.

"§ 65-21.5. *Annual budget of commission; collection of funds for operation.*— The commission shall prepare an annual budget and shall collect the sums of money required for this budget from yearly fees and any other sources provided in this Article. On or before July 1 of each year, each licensed cemetery will pay a license fee of one hundred dollars ($100.00) per year; and in addition, a fee for each grave space, niche, mausoleum crypt deeded, and pre-need cemetery merchandise contract for vaults, belowground crypts, and memorials, to be set by the commission each year in order to defray the expenses of the commission as set forth in the budget.

"§ 65-22. *License: cemetery company.*—(1) No legal entity shall engage in the business of operating a cemetery company except as authorized by this Article and without first obtaining a license from the commission.

(2) Any legal entity wishing to establish a cemetery shall file a written application for authority with the commission on forms provided by the commission.

(3) Upon receipt of the application and filing fee of four hundred dollars ($400.00), the commission shall cause an investigation to be made to establish the following criteria for approval of such application:

(a) The creation of a legal entity to conduct cemetery business, and the proposed financial structure.

(b) A perpetual care trust fund agreement, with an initial deposit of not less than fifteen thousand dollars ($15,000) and with bank cashier's check or certified check attached for such amount and payable to such trustee, with said trust executed by applicant and accepted by the trustee, conditioned only upon whether the application is approved.

(c) A plat of the land to be used for a cemetery, showing county, city and/or township, and names of roads and access streets or ways.

(d) Designation by the legal entity wishing to establish a cemetery of a general manager who shall be a person of good moral character, having had no less than one year's experience in cemeteries.

(e) Development plans sufficient to insure the community that the cemetery will provide adequate cemetery services, and the property is suitable for use as a cemetery.

(4) The commission, after receipt of the investigating report, shall grant or refuse to grant the authority to organize a cemetery.

(5) If the commission intends to deny an application, it shall give written notice to the applicant of its intention to deny. The notice shall state a time and a place for a hearing before the commission and a summary statement of the reasons for the proposed denial. The notice of intent shall be mailed by certified mail to the applicant at the address stated in the application at least 15 days prior to the scheduled hearing date. The applicant shall pay the costs of this hearing as assessed by the commission unless the applicant notifies the commission by certified mail at least five days prior to the scheduled hearing date that a hearing is waived. Any appeals from the commission's decision shall be to the court having jurisdiction of the applicant or the commission.

(6) If the commission intends to grant the authority, it shall give written notice that the authority to organize a cemetery has been granted and that a license to operate will be issued upon the completion of the following:

(a) Establishment of the care and maintenance trust fund and receipt by the commission of a certificate from the trust company, certifying receipt of the initial deposit required under this Article.

(b) Full development, ready for burial, of not less than two acres including a completed paved road from a public roadway to said developed section, certified by inspection of the commission or its representative.

(c) A description, by metes and bounds, of the acreage tract of such proposed cemetery, together with evidence, by title insurance policy or by certificate of an attorney-at-law, certifying that the applicant is the owner in fee simple of such tract of land, which must contain not less than 30 acres, and that the title to not less than 30 acres is free and clear

of all encumbrances. In counties with a population of less than 35,000 population according to the latest federal decennial census the tract need be only 15 acres.

(d) A plat of the cemetery showing the number and location of all lots surveyed and permanently staked for sale.

"§ 65-22.2. *Existing companies; effect of this Article 7.*—Existing cemetery companies at the time of the adoption of this Chapter shall continue in full force and effect and be granted a license but shall hereafter be operated in accordance with the provisions of Article 7 of this Chapter.

"§ 65-23. *License; sales organization, management organization, broker.*—(1) No legal entity shall engage in the business of a cemetery sales organization, a cemetery management organization or a cemetery broker except as authorized by this Article, and without first obtaining a license from the commission.

(2) Any legal entity wishing to establish and operate the business of a cemetery sales organization, a cemetery management organization or a cemetery broker shall file a written application for authority with the commission on forms provided by the commission which must contain such of the following documents and information as may be required by the commission:

(a) The appointment of a North Carolina resident to receive service of any lawful process in any noncriminal proceedings arising under this Chapter against the applicant, its principal owners, principal stockholders, directors and general manager or their personal representatives.

(b) The states or other jurisdictions in which the applicant presently is conducting the business activity applied for or other similar businesses and any adverse order, judgment or decree entered against the applicant in each jurisdiction or by any court.

(c) The applicant's name, address and the form, date and jurisdiction of the organization and the address of each of its offices within or without this State.

(d) The name, address, principal occupation for the past five years of every director and officer of the applicant or person occupying a similar status or performing similar functions.

(e) Copies of the articles of incorporation or articles of partnership or joint venture agreement or other instrument establishing the legal entity of the applicant.

(3) The application shall be accompanied by an initial filing fee of four hundred dollars ($400.00) for cemetery sales organization and cemetery management organization and an initial filing fee of two hundred dollars ($200.00) for a cemetery broker. If ninety percent (90%) or more of the applicant is owned by an existing cemetery company operating under the North Carolina Cemetery Act, then the initial filing fee shall be one-half of the sums set out herein.

(4) Upon receipt of the application and filing fee, the commission shall cause an investigation to be made of the legal entity to conduct the business applied for and the qualification of said legal entity to do business in North Carolina.

(5) The commission, after receipt of the investigation report, shall grant or refuse to grant the authority to organize the organization applied for.

(6) If the commission intends to deny an application, it shall give written notice to the applicant of its intention to deny. The notice shall state a time and

a place for hearing before the commission and a summary statement of the reasons for the proposed denial. The notice of intent shall be mailed by certified mail to the applicant at the address stated in the application at least 15 days prior to the scheduled hearing date. Any appeals from the commission's decision shall be to the court having jurisdiction of the applicant, or in the event of an out-of-state applicant, then to the court having jurisdiction of the commission.

(7) If the commission intends to grant the authority, it shall give written notice that the authority to organize the business applied for has been granted and that a license to operate will be issued upon presentment to the commission of a statement of employment between the applicant and the cemetery or cemeteries to be serviced thereby.

(8) Any person or any cemetery sales organization or any cemetery management organization or any cemetery broker violating the provisions of this section is guilty of a misdemeanor, punishable as provided in Section 14-3 and shall be subject to revocation of the license to operate.

"§ 65-24. *Licenses for persons selling pre-need grave space.*—(1) No person shall offer to sell pre-need grave spaces, mausoleum crypts, niches, memorials, vaults or any other pre-need cemetery merchandise or services under any plan authorized for any cemetery, cemetery sales group, or cemetery management group, before obtaining a license from the commission.

(2) Persons wishing to obtain a license shall file a written application with the commission on forms provided by the commission. The commission may require such information and documents as it deems necessary to protect the public interest.

(3) The application shall be accompanied by a filing fee of fifteen dollars ($15.00) to cover the expenses of processing and investigation. After processing and investigation the commission shall grant, or refuse to grant, the license applied for. The annual license fee shall be sent by the commission but shall not exceed ten dollars ($10.00).

(4) If the commission refuses to grant the license applied for, it shall give written notice to the applicant. The notice shall state a time and a place for hearing before the commission, and a summary statement of the reasons for the refusal to grant the license. The notice shall be mailed by registered mail or certified mail to the applicant at the address stated in the application at least 30 days prior to the scheduled hearing date.

(5) If the commission intends to grant the license, it shall give written notice that the license will be issued upon presentment to the commission of a duly executed statement of employment between the applicant and the cemetery or cemeteries to be serviced thereby.

(6) The provisions of Article 4 of Chapter 150A of the General Statutes of North Carolina relating to 'Judicial Review' shall apply to appeals or petitions for judicial review by any person or persons aggrieved by an order or decision of the commission.

(7) The provisions of this Article 7 shall not apply to persons holding a certificate under G.S. 65-36.1 through G.S. 65-36.8.

"§ 65-25. *Application for change of control; filing fee.*—In any case where a person, a group of persons, or a corporation proposes to purchase or acquire control of an existing cemetery company either by purchasing the outstanding capital stock of any cemetery company, or the interest of the owner or owners, and thereby to change the control of said cemetery company, such person shall

first make application on form supplied by the commission for a certificate of approval of such proposed change of control of said cemetery company. The application shall contain the name and address of the proposed new owners and the said commission shall issue said certificate of approval only after it has become satisfied that the proposed new owners are qualified by character, experience and financial responsibility to control and operate the said cemetery in a legal and proper manner, and that the interest of the public generally will not be jeopardized by the proposed change in ownership and management. Such application for a purchase or change of control must be completed and accompanied by an initial filing fee of one hundred dollars ($100.00) to cover examination provided in G.S. 65-21.4(b) if required, and if records are in order, certificate of approval shall be issued.

"§ 65-26. *Records.*—A record shall be kept of every burial in the cemetery of a cemetery company, showing the date of burial, name of the person buried, together with lot, plot, and space in which such burial was made therein. All sales, trust funds, accounting records, and all other records of the licensee shall be available at the licensee's principal place of business in this State and shall be readily available at all reasonable times for examination by an authorized representative of the commission.

"§ 65-27. *Required trust fund for care and maintenance; remedy of commission for noncompliance.*—No cemetery company shall be permitted to establish, or operate if already established, a cemetery without providing for the future care and maintenance of such cemetery, for which a trust fund shall be established to be known as 'the care and maintenance trust fund of ___ (here use name of licensee)'. If any cemetery company refuses or otherwise fails to provide or maintain an adequate care and maintenance trust fund in accordance with the provisions of this act, the commission, after reasonable notice, shall proceed to enforce compliance under the powers vested in it under this act; provided any nonprofit cemetery corporation, incorporated and engaged in the cemetery business continuously since and prior to 1915 and whose current trust assets exceed seven hundred fifty thousand dollars ($750,000) shall not be required to designate a corporate trustee. The trust fund agreement shall contain and include the following: name, location, and address of both the licensee and the trustee showing the date of agreement together with the amounts required deposited as stated in this Article. No person shall withdraw or transfer any portion of the corpus of the care and maintenance trust fund without first obtaining written consent from the commission.

"§ 65-27.1. *Individual contracts for care and maintenance.*—At the time of making a sale or receiving the initial deposit hereunder, the cemetery company shall deliver to the person to whom such sale is made, or who makes such deposit, an instrument in writing which shall specifically state that the net income of the care and maintenance trust fund shall be used solely for the care and maintenance of the cemetery, for reasonable costs of administering such care and maintenance and for reasonable costs of administering the trust fund.

"§ 65-27.2. *Requirements for advertising of perpetual care fund.*—No such cemetery shall hereafter cause or permit advertising of perpetual care fund in connection with the sale or offer for sale of its property unless the amount deposited in said funds shall be equal to not less than twenty dollars ($20.00) per grave space and niche and forty dollars ($40.00) per mausoleum crypt sold, said

sum to be deposited in perpetual care fund as provided in G.S. 65-27 except as provided in G.S. 65-27.3.

"§ 65-27.3. *Disposition of deposits when perpetual care fund amounts to $150,000.*—When the amount deposited in the perpetual care fund required by this Article of any cemetery heretofore or hereafter established shall amount to one hundred fifty thousand dollars ($150,000), anything in this Article to the contrary notwithstanding, the cemetery may make all deposits thereafter either into the original Perpetual Care Trust Fund or into a separate fund which shall be an irrevocable trust and designated as Perpetual Care Trust Fund 'A' and invested by trustee as directed by the cemetery, but may not be invested in another cemetery, and said deposits shall be not less than twenty dollars ($20.00) per grave space.

For special endowments for a specific lot, grave, or a family mausoleum, memorial, marker, or monument, the cemetery may set aside the full amounts received for this individual special care in a separate trust or by a deposit to a savings account in a bank or savings and loan association located within and authorized to do business in the State, provided, however, if the licensee does not set up a separate trust or savings account for the special endowment the full amount thereof shall be deposited in Perpetual Care Trust Fund 'A'.

Deposits to the care and maintenance trust fund must be made by the cemetery company holding title to the subject cemetery lands not later than 10 days following the close of the calendar month in which payments were received as provided herein; however, the entire amount required to be deposited into the fund shall be paid within four years from the date of any contract requiring such payment regardless of whether all amounts have been received by the cemetery company. The care and maintenance trust fund shall be invested and reinvested by the trustee in the same manner as provided by law for the investment of other trust funds by the clerk of the superior court. The fees and other expenses of the trust fund shall be paid by the trustee from the net income thereof and may not be paid from the corpus. To the extent that the said net income is not sufficient to pay such fees and other expenses, the same shall be paid by the cemetery company.

When a municipal, church-owned or fraternal cemetery converts to a private cemetery as defined in Section 65-20, North Carolina General Statutes, then said cemetery shall establish and maintain a care and maintenance trust fund pursuant to this section; provided, however, the initial deposit for establishment of this trust fund shall be an amount equal to ten dollars ($10.00) per space for all spaces either previously sold or contracted for sale in said cemetery at the time of conversion or twenty-five thousand dollars ($25,000), whichever sum is greater.

Each cemetery hereinafter established shall create a care and maintenance trust fund depositing therein an initial deposit of not less than fifteen thousand dollars ($15,000) and submit proof thereof to the commission prior to offering for sale any burial rights in grave spaces, niches or crypts.

In each sales contract, reservation or agreement wherein burial rights are priced separately, the purchase price of said burial rights shall be the only item subject to care and maintenance trust fund deposits; but if the burial rights are not priced separately therein, the full amount of the contract, reservations or agreement shall be subject to care and maintenance trust fund deposits as

provided herein, unless the purchase price of said burial rights can be determined from the accounting records of the cemetery company.

"§ 65-27.4. *Trust fund; financial reports.*—Within 60 days after the end of the calendar or fiscal year of the cemetery company, the trustee shall furnish adequate financial reports with respect to the care fund on forms provided by the commission. However, the commission may require the trustee to make such additional financial reports as it may deem advisable.

"§ 65-28. *Receipts from sale of personal property or services; trust fund; penalties.*—(1) It shall be deemed contrary to public policy if any person or legal entity receives, holds, controls or manages funds or proceeds received from the sale of, or from a contract to sell, personal property or services which may be used in a cemetery in connection with the burial of or the commemoration of the memory of a deceased human being; where payments for the same are made either outright or on an installment basis prior to the demise of the person or persons so purchasing them, or for whom they are so purchased, unless such person or legal entity holds, controls or manages said funds, subject to the limitations and regulations prescribed in this section. This section shall apply to all cemetery companies or other legal entities licensed under this Chapter that offer for sale or sell personal property or services which may be used in a cemetery in connection with the burial of, or the commemoration of the memory of, a deceased human being, but shall exclude persons holding a certificate under Sections 65-36.1 through 65-36.8, North Carolina General Statutes.

(2) Any cemetery company or other entity entering into a contract for the sale of personal property or services, to be used in a cemetery in connection with disposing of, or commemorating the memory of, a deceased human being wherein the use of the personal property or the furnishing of the services is not immediately requested or required, shall deposit proceeds received on the contract as follows:

(a) Into a trust fund administered by a corporate trustee in accordance with a written trust instrument.

(b) Seventy-five percent (75%) of all proceeds received on such contracts shall be deposited until the amount deposited equals seventy-five percent (75%) of the actual sale price of the property or services so sold.

(c) The deposit herein required shall be made into the trust fund so established on or before the tenth day of the month following receipt by the cemetery company or other entity from the purchaser.

(d) Each deposit into any such trust fund shall be identified by the cemetery company or other entity by furnishing the trustee with the name of the purchaser, the amount of the actual sales price and the amount of money required to be deposited, and with the initial deposit a statement of or a copy of the contract for the personal property and services to be furnished by the cemetery company thereunder. Nothing herein contained shall prohibit the trustee from commingling the deposits in any such trust fund for purposes of the management thereof and the investment of funds therein.

(e) The trust shall be operated in conformity with Chapter 36, North Carolina General Statutes, with respect to the nature and character of the trustee.

(f) In lieu of the deposits required herein, the cemetery company or other

entity may post with the commission a good and sufficient performance bond by surety company licensed to do business in North Carolina and in an amount sufficient to cover all payments made by purchasers who have not received the purchased property and services.

(3) (a) The funds shall be held in trust both as to principal and income earned thereon and shall remain intact, except that the cost of the operation of the trust may be deducted from the income earned thereon, until delivery of the property is made or the services are performed by the cemetery company or other entity. Upon delivery of the property or performance of the services, the cemetery company or other entity and the purchaser shall certify same to the trustee. Upon such certification, the amount of money on deposit to the credit of that particular contract, including principal and income earned thereon, shall be forthwith paid to the cemetery company or other entity. The trustee may rely upon all such certifications herein required to be made and shall not be liable to anyone for such reliance.

(b) If for any reason a cemetery company or other entity who has entered into a contract for the sale of personal property or services cannot or does not provide the personal property or perform the services called for by the contract after request in writing to do so, the purchaser or his heirs or assigns or duly authorized representative shall be entitled to receive the entire amount paid on the contract and any income, if any, earned thereon by the trust fund.

(4) At any time prior to delivery of personal property or performance of services, a purchaser may make written demand for a refund of the amount deposited in trust to the credit of such purchaser, and within 30 days of receipt of such written demand the trustee shall refund to such purchaser the amount on deposit to his credit together with all interest, dividends, increases or accretions earned on such fund.

(5) Every year after the effective date of this act the trustee shall, within 75 days after the end of the calendar year, file a financial report of the merchandise trust fund with the commission, setting forth the principal thereof, the investments and payments made, and the income earned and disbursed; provided, however, that the commission may require the trustee to make such additional financial reports as it may deem advisable.

(6) The commission shall have the power and is required from time to time as it may deem necessary to examine the business of any cemetery company or other entity writing contracts for the sale of the property or services as herein contemplated. The written report of such examination shall be filed in the office of the commission. Any persons or entities being examined shall produce the records of the company needed for such examination.

(7) Any provision of any contract for the sale of the personal property or the performance of services herein contemplated under which the purchaser or beneficiary waives any of the provisions of this section shall be void.

(8) Any cemetery company or other entity, as defined in this section, failing to make required contributions to the trust fund shall be guilty of a misdemeanor punishable as provided in G.S. 14-3, and each violation of this section shall constitute a separate offense.

(9) Nothing in G.S. 65-28 and subsections thereunder shall apply to persons or legal entities holding licenses or certificates under G.S. 65-36.1 and G.S. 65-36.8 when performing services or selling items authorized by said sections.

(10) If any report is not received within the time stipulated herein, the commission may levy and collect a penalty of twenty-five dollars ($25.00) per day for each day of delinquency.

"§ 65-29. *Applications for license.*—Applications for renewal license must be submitted on or before July 1 each and every year in the case of an existing cemetery company. Before any sale of cemetery property in the case of a new cemetery company or a change of ownership or control as indicated in G.S. 65-25, an application for license must be submitted and license issued.

"§ 65-29.1. *License not assignable or transferable.*—No license issued under G.S. 65-29 shall be transferable or assignable and no licensee shall develop or operate any cemetery authorized by this act under any name or at any location other than that contained in the application for such license.

"§ 65-30. *Minimum acreage; sale or disposition of cemetery lands.*—(1) Each licensee shall set aside a minimum of 30 acres of land for use by said licensee as a cemetery, and shall not sell, mortgage, lease or encumber the same.

(2) The fee simple title, or lesser estate, in any lands owned by licensee and dedicated for use by it as a cemetery, which are contiguous, adjoining, or adjacent to the minimum of 30 acres described in subsection (1), may be sold, conveyed, or disposed of, or any part thereof, by the licensee, for use by the new owner for other purposes than as a cemetery; provided that no bodies have been previously interred therein; and provided further, that any and all titles, interests, or burial rights which may have been sold or contracted to be sold in such lands which are the subject of such sale shall be conveyed to and revested in the licensee prior to consummation of any such sale, conveyance or disposition.

(3) Any licensee may convey and transfer to a municipality or county its real and personal property together with moneys deposited with the trustee; provided said municipality or county will accept responsibility for maintenance thereof and prior written approval of the commission is first obtained.

(4) The provisions of subsections (1) and (2) relating to a requirement for minimum acreage shall not apply to those cemeteries licensed by the commission on or before July 1, 1967, which own or control a total of less than 30 acres of land; provided that such cemeteries shall not dispose of any of such lands.

"§ 65-31. *Construction of mausoleums and belowground crypts; trust fund for receipts from sale of preconstruction crypts; compliance requirement.*—(1) A cemetery company shall be required to start construction of that section of a mausoleum or bank of belowground crypts in which sales, contracts for sale, reservations for sales or agreements for sales are being made, within 48 months after the date of the first such sale. The construction of such mausoleum section or bank of belowgound crypts shall be completed within five years after the date of the first sale made; provided, however, extensions for completion, not to exceed one year, may be granted by the commission for good reasons shown if a section of a mausoleum or a bank of belowground crypts shall contain more than 500 crypts.

(2) A cemetery company which plans to offer for sale space in a section of a mausoleum or bank of underground crypts prior to its construction shall establish a preconstruction trust fund by written instrument and administered

by a corporate trustee and operated in conformity with G.S. 65-28. This preconstruction fund shall be exclusive of the merchandise trust fund provided for in G.S. 65-28 of this Chapter or such other trust funds that may be required by law. The personal representative of any purchaser of such space who dies before completion of construction shall be entitled to a refund of all monies paid for such space including any income earned thereon.

(3) Before a sale, contract for sale, reservation for sale or agreement for sale in the first mausoleum section or bank of underground crypts in each cemetery may be made the funds (one hundred twenty percent (120%) of construction cost) to be deposited to the preconstruction trust fund shall be computed as to said section or bank of crypts and such fund payments must be made within 30 days of receipt by the cemetery company or its agent of each payment. The fund portion of each such payment shall be computed by dividing the cost of the project plus twenty percent (20%) of said cost, as computed by a licensed contractor, engineer or architect by the number of crypts in the section or bank of crypts to ascertain the cost per unit. The unit cost shall be divided by the contract sales price of each unit to obtain a percentage which shall be multiplied by the amount of each payment. The formula shall be computed as follows:

Cost plus 20 percent / Number of crypts	= Cost per unit
Cost per unit / Contract sales price	= Percentage
Percentage x payment received	= Deposit required to preconstruction fund.

(4) Upon completion of the mausoleum section or bank of underground crypts the cemetery company shall certify same to the trustee and shall be entitled to withdraw all funds deposited to the account thereof.

(5) If said mausoleum section or bank of underground crypts is not completed within the time limits set out in this section the trustee shall contract for and cause said project to be completed and paid therefor from the trust funds deposited to the project's account paying any balance, less cost and expenses, to the cemetery company.

(6) In lieu of the payments outlined hereunder to the preconstruction fund the cemetery company may deliver to the commission a good and sufficient completion or performance bond in an amount and by surety companies acceptable to the commission.

"§ 65-32. *Penalties.*—(1) A person violating any provisions of this Article, or order or rule promulgated under the provisions thereof, or of any license issued by the commission, shall be guilty of a misdemeanor and fined and imprisoned, or both, in the discretion of the court.

(2) The officers and directors or persons occupying similar status or performing similar functions of any cemetery company, cemetery sales organization, cemetery management organization or cemetery broker, as defined in this Chapter, failing to make required contributions to the care and maintenance trust fund and any other trust fund or escrow account provided herein, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished in the manner prescribed by law.

"§ 65-33. *Burial without regard to race or color.*—(1) It shall be the public policy of the State that all cemetery companies or other legal entities conducting or maintaining public or private cemeteries shall sell to all

applicants and bury all deceased human beings on equal terms without regard to race or color. Anything contrary hereto is void and of no legal effect. Bylaws, rules and regulations, contracts, deeds, etc., may permit designation of parts of cemeteries or burial grounds for the specific use of persons whose religious code required isolation. Any program offering free burial rights to veterans or any other person or group of persons shall not be conditioned by any requirement to purchase additional burial rights or merchandise.

(2) Any cemetery company or other legal entity violating the provisions of this section shall be guilty of a misdemeanor, punishable as provided in G.S. 14-3, and each violation of this section shall constitute a separate offense."

Sec. 2. It is declared to be the legislative intent that, if any section, subsection, sentence, clause, or provision of this act is held invalid, the remainder of this act shall not be affected.

Sec. 3. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 4. This act shall become effective September 1, 1975.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

S. B. 802 CHAPTER 769

AN ACT TO AMEND G.S. 15-184 BY DELETING THE REQUIREMENT THAT THE ATTORNEY GENERAL BE NOTIFIED OF A STAY OF EXECUTION AND OF AN EXTENSION OF TIME DURING CRIMINAL APPEAL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15-184 is amended by deleting the second and third sentences thereof.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

S. B. 842 CHAPTER 770

AN ACT TO MAKE CERTAIN CONFORMING AMENDMENTS TO G.S. 148-45 RELATING TO ESCAPEES FROM NORTH CAROLINA'S PRISONS.

The General Assembly of North Carolina enacts:

Section 1. Amend G.S. 148-45(a) on page 174 of the 1974 Cumulative Supplement immediately after the word "offense" on line 3 thereof by inserting the following language: ", except as provided in (g) of this section,".

Sec. 2. Amend G.S. 148-45(b) on page 175 of the 1974 Cumulative Supplement immediately after the word "offense" on line 3 thereof by inserting the following language: ", except as provided in (g) of this section,".

Sec. 3. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

S. B. 884 **CHAPTER 771**

AN ACT TO AMEND G.S. 50-5(6) SO AS TO DEFINE THE WORDS "SEPARATE AND APART" AND "COHABITATION".

The General Assembly of North Carolina enacts:

Section 1. G.S. 50-5(6) as the same appears in the 1974 Cumulative Supplement to Volume 2A of the General Statutes is amended by adding the following language immediately after the language "Provided," and immediately preceding the words "the evidence" where they appear in line 5 of subsection 6:

"if the insane spouse has been released on a trial basis to the custody of his or her respective spouse such shall not be considered as terminating the status of living 'separate and apart' nor shall it be considered as constituting 'cohabitation' for the purpose of this statute nor shall it prevent the granting of a divorce as provided by this statute. Provided further,".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

S. B. 914 **CHAPTER 772**

AN ACT RELATING TO HOSPITAL FACILITIES IN WAKE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding any other provision of Article 13B of Chapter 131 of the General Statutes of North Carolina, the Board of County Commissioners of Wake County is hereby authorized to further implement the county program of providing adequate and necessary hospital services and facilities by a gift of hospital property to a nonprofit corporation notwithstanding such hospital property may have been acquired and constructed from the proceeds of the sale of bonds.

Sec. 2. This act shall apply only to Wake County.

Sec. 3. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 4. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. B. 526 **CHAPTER 773**

AN ACT TO CREATE THE BOARD OF EXAMINERS FOR SPEECH AND LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 90 of the General Statutes is hereby amended by adding a new Article at the end thereof to read as follows:

"ARTICLE 22.

"LICENSURE ACT FOR SPEECH AND LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS.

"§ 90-292. *Declaration of policy.*—It is declared to be a policy of the State of North Carolina that, in order to safeguard the public health, safety, and welfare; to protect the public from being misled by incompetent, unscrupulous, and

unauthorized persons and from unprofessional conduct on the part of qualified speech and language pathologists and audiologists and to help assure the availability of the highest possible quality speech and language pathology and audiology services to the communicatively handicapped people of this State, it is necessary to provide regulatory authority over persons offering speech and language pathology and audiology services to the public.

"§ 90-293. *Definitions.*—As used in this Article, unless the context otherwise requires:

(1) 'Board' means the Board of Examiners for Speech and Language Pathologists and Audiologists.

(2) 'License' means a license issued by the Board under the provisions of this Article, including a temporary license.

(3) 'Person' means an individual, organization, or corporate body, except that only individuals can be licensed under this Article.

(4) 'Speech and language pathologist' means any person who represents himself to the public by title or by description of services, methods, or procedures as one who evaluates, examines, instructs, or counsels persons suffering from conditions or disorders affecting speech and language. A person is deemed to be a speech and language pathologist if he offers such services under any title incorporating the words 'speech pathology', 'speech pathologist', 'speech correction', 'speech correctionist', 'speech therapy', 'speech therapist', 'speech clinic', 'speech clinician', 'language pathologist', 'language therapist', 'logopedist', 'communication disorders', 'communicologist', voice therapist', 'voice pathologist', or any similar title or description of service.

(5) 'Audiologist' means any person who engages in the practice of audiology. A person is deemed to be an audiologist if he offers services to the public under any title incorporating the terms of 'audiology', 'audiologist', 'audiological', 'hearing clinic', 'hearing clinician', 'hearing therapist', or any similar title or description of service; provided, however, that a person licensed under Chapter 93D of the General Statutes may use the term 'National Hearing Aid Society, Certified Hearing Aid Audiologist' except in public representations, advertising and telephone directory listings.

(6) 'The practice of speech and language pathology' means the application of principles, methods, and procedures for the measurement, testing, evaluation, prediction, counseling, instruction, habilitation, or rehabilitation related to the development and disorders of speech, voice, or language for the purpose of identifying, preventing, ameliorating, or modifying such disorders.

(7) 'The practice of audiology' means the application of principles, methods, and procedures of measurement, testing, evaluation, prediction, consultation, counseling, instruction, habilitation, or rehabilitation related to hearing and disorders of hearing for the purpose of identifying, preventing, ameliorating, or modifying such disorders and conditions in individuals and/or groups of individuals. A person licensed under this Article may not engage in the dispensing, fitting and selling of hearing aids unless that person is also licensed under Chapter 93D of the General Statutes. For the purpose of this subsection, the words 'habilitation' and 'rehabilitation' shall include auditory training, speech reading, hearing aid use evaluation and recommendations, and fabrication of earmolds and similar accessories for clinical testing purposes only.

(8) 'Unethical conduct' means:

(i) The obtaining of any fee by fraud or misrepresentation.

(ii) Employing directly or indirectly any suspended or unregistered person to perform any work covered by this Article.

(iii) Using or causing or promoting the use of any advertising matter, promotional literature, testimonial, guarantee, warranty, label, brand, insignia, or any other representation, however disseminated or published, which is misleading, deceiving, improbable, or untruthful.

(iv) Falsely representing that the services of a licensed physician will be employed in the practice of speech and language pathology or audiology, or using the term 'doctor' in reference to anyone other than a licensed physician involved in said practice, or falsely implying in any manner that the services of a licensed physician are routinely used in said practice.

"§ 90-294. *License required; Article not applicable to certain activities.*—(a) Licensure shall be granted in either speech and language pathology or audiology independently. A person may be licensed in both areas if he is qualified.

(b) No person may practice or hold himself out as being able to practice speech and language pathology or audiology in this State unless such person holds a current, unsuspended, unrevoked license issued by the Board as provided in this Article or holds a current, unsuspended, unrevoked license of endorsement pursuant to G.S. 90-296. The license required by this section shall be kept conspicuously posted in such person's office or place of business at all times. Nothing in this Article, however, shall be considered to prevent a qualified person licensed in this State under any other law from engaging in the profession for which such person is licensed.

(c) The provisions of this Article do not apply to:

(1) The activities, services and use of an official title by a person employed by an agency of the federal government and solely in connection with such employment, except that an individual is not exempt from this Article who does work as a speech and language pathologist or audiologist outside the scope of such employment for which a fee may be paid directly or indirectly to such person by or for the recipient of the service.

(2) The activities and services of a student or trainee in speech and language pathology or audiology, pursuing a course of study in an accredited college or university, or working in a training center program approved by the Board, if these activities and services constitute a part of such person's course of study.

(3) The activities and services of a person who has recently become a resident of the State whose application for licensing with or without examination has been received by the Board, pending disposition of such application, if the person was licensed to perform such services by a state with standards equivalent to or exceeding those of this State, as determined by the Board.

(4) A person who holds a valid and current credential as a speech and language pathologist or audiologist issued by the North Carolina Department of Public Instruction or who is employed by the North Carolina Schools for the Deaf and Blind, if such person practices speech and language pathology or audiology in a salaried position solely within

the confines or under the jurisdiction of the Department of Public Instruction or the Department of Human Resources respectively.

(d) Nothing in this Article shall apply to a physician licensed to practice medicine, or to any person employed by such a physician in the course of his practice of medicine.

(e) This Article shall not be construed to prevent any person licensed in this State under Chapter 93D of the General Statutes of North Carolina from the practice of fitting and selling hearing aids.

(f) The provisions of this act do not apply to registered nurses and licensed practical nurses or other certified technicians trained to perform audiometric screening tests in industrial operations and whose work is under the supervision of a company physician, consulting physician or licensed audiologist.

(g) The provisions of this act do not apply to persons who are now or may become engaged in counseling or instructing laryngectomees in the methods, techniques or problems of learning to speak again.

"§ 90-295. *Qualifications of applicants for licensure.*—To be eligible for licensure by the Board as a speech and language pathologist or audiologist, the applicant must:

(a) Possess at least a master's degree in speech and language pathology or audiology or qualifications deemed equivalent by the Board under regulations duly adopted under this Article. Such degree or equivalent qualifications shall be from an accredited institution.

(b) Submit transcripts from one or more accredited colleges or universities presenting evidence of the completion of 60 semester hours constituting a well-integrated program of course study dealing with the normal aspects of human communication, development thereof, disorders thereof, and clinical techniques for evaluation and management of such disorders.

(1) Twelve of these 60 semester hours must be obtained in courses that provide information that pertains to normal development and use of speech, language and hearing.

(2) Thirty of these 60 semester hours must be in courses that provide information relative to communication disorders and information about and training in evaluation and management of speech, language, and hearing disorders. At least 24 of these 30 semester hours must be in courses in the professional area (speech and language pathology or audiology) for which the license is requested, and no less than six semester hours may be in audiology for the license in speech and language pathology or in speech and language pathology for the license in audiology. Moreover, no more than six semester hours may be in courses that provide credit for clinical practice obtained during academic training.

(3) Credit for study of information pertaining to related fields that augment the work of the clinical practitioner of speech and language pathology and/or audiology may also apply toward the total 60 semester hours.

(4) Thirty of the total 60 semester hours that are required for a license must be in courses that are acceptable toward a graduate degree by the college or university in which they are taken. Moreover, 21 of those 30 semester hours must be within the 24 semester hours required in the professional area (speech and language pathology or audiology) for

which the license is requested or within the six semester hours required in the other area.

(c) Submit evidence of the completion of a minimum of 300 clock hours of supervised, direct clinical experience with individuals who present a variety of communication disorders. This experience must have been obtained within the training institution or in one of its cooperating programs.

(d) Present written evidence from a licensed and/or American Speech and Hearing Association certified speech and language pathologist or audiologist supervisor of nine months of full-time professional experience in which bona fide clinical work has been accomplished in the major professional area (speech and language pathology or audiology) in which the license is being sought. This experience must follow the completion of the requirements listed in paragraphs (a), (b) and (c). Full time is defined as at least nine months in a calendar year and a minimum of 30 hours per week. Half time is defined as at least 18 months in two calendar years and a minimum of 20 hours per week.

(e) Pass an examination approved by the Board. The Board shall determine the subject and scope of the examination. Written examinations may be supplemented by such oral examinations as the Board shall determine. An applicant who fails his examination may be re-examined at a subsequent examination upon payment of another examination fee.

"§ 90-296. *Examinations.*—(a) An applicant for registration who has satisfied the requirements of G.S. 90-295 shall appear at a time and place and before persons the Board designates, to be examined by written and/or practical tests, in order to determine such person's qualifications to practice speech and language pathology and audiology.

(b) The Board shall give at least two examinations of the type prescribed in paragraph (a) of this section in each year, and additional examinations as the volume of applications makes appropriate.

(c) An examination shall not be required as a prerequisite for a license for a person who holds a Certificate of Clinical Competence issued by the American Speech and Hearing Association in the specialized area for which such person seeks a license.

"§ 90-297. *Registration and issuance of licenses; licenses for persons licensed in other jurisdiction or engaged in practice on date of act.*—(a) Upon payment of the fee, the Board shall license each applicant who satisfactorily completes the license requirements.

(b) If the Board determines that another state or jurisdiction has requirements equivalent to or higher than those in effect pursuant to this Article for the practice of audiology or speech pathology, and that state or jurisdiction has a program equivalent to or stricter than the program for determining whether applicants pursuant to this Article are qualified to practice audiology or speech pathology, the Board may issue licenses to applicants therefor who hold current, unsuspended, and unrevoked certificates or licenses to practice audiology or speech pathology in the other state or jurisdiction upon payment of the license fee.

(c) The Board shall waive the examination and educational requirements for those applicants who, on the effective date of this act, are actively engaged in the practice of speech and language pathology or audiology upon proof of bona fide practice presented to the Board on or before December 31, 1975.

"§ 90-298. *Temporary license.*—(a) An applicant who fulfills all of the requirements of G.S. 90-295 except those requirements relating to experience, as set forth in subsection (d) of G.S. 90-295, and who has not previously applied to take the examination provided under subsection (e) of G.S. 90-295, may apply to the Board for a temporary license.

(b) Upon receiving an application for a temporary license accompanied by a fee in an amount established by the General Assembly, the Board shall issue a temporary license, which entitles the applicant to practice speech and language pathology or audiology for a period of eight weeks after the conclusion of the next examination given after the date of issue.

(c) No temporary license shall be issued by the Board under this section unless the applicant shows to the satisfaction of the Board that the applicant is or will be supervised and trained by a person who holds a valid license under this Article.

(d) If a person who holds a temporary license issued under this section does not take the next examination given after the date of issue, the temporary license shall not be renewed.

"§ 90-299. *Licensee to notify Board of place of practice.*—(a) A person who holds a license shall notify the Board in writing of the address of the place or places where he engages or intends to engage in the practice of speech and language pathology or audiology.

(b) The Board shall keep a record of the places of practice of licensees.

(c) Any notice required to be given by the Board to a licensee may be given by mailing it to him at the address of the last place of practice of which he has notified the Board.

"§ 90-300. *Renewal of licenses.*—A licensee shall annually pay to the Board a fee in an amount established by the General Assembly for a renewal of his license. A 30-day grace period shall be allowed after expiration of a license during which the license may be renewed on payment of a fee in an amount established by the General Assembly. The Board may suspend the license of any person who fails to renew his license before the expiration of the 30-day grace period. After expiration of the grace period, the Board may renew such a license upon the payment of a fee in an amount established by the General Assembly. No person who applies for renewal, whose license was suspended for failure to renew, shall be required to submit to any examination as a condition of renewal.

"§ 90-301. *Grounds for suspension or revocation of license.*—Any person licensed under this Article may have his license revoked or suspended for a fixed period by the Board under the provisions of North Carolina General Statutes, Chapter 150, for any of the following causes.

(1) His license has been secured by fraud or deceit practiced upon the Board.

(2) Fraud or deceit in connection with his services rendered as an audiologist or speech pathologist.

(3) Unprofessional conduct as defined by the rules established by the Board or violation of the code of ethics made and published by the Board.

(4) Violation of any lawful order, rule or regulation rendered or adopted by the Board.

(5) Any violation of the provisions of this Article.

"§ 90-302. *Prohibited acts and practices.*—No person may:

(1) Sell, barter, transfer or offer to sell or barter a license.

(2) Purchase or procure by barter a license with intent to use it as evidence of the holder's qualification to practice audiology or speech pathology.

(3) Alter a license.

(4) Use or attempt to use a valid license which has been purchased, fraudulently obtained, counterfeited or materially altered.

(5) Make a false, material statement in an application for a North Carolina license.

"§ 90-303. *Board of Examiners for speech and language pathology and audiology; qualifications, appointment and terms of members; vacancies; meetings; etc.*—(a) There shall be a Board of Examiners for speech and language pathologists and audiologists, which shall be composed of five members, who shall all be residents of this State. Two members shall have a paid work experience in audiology for at least five years and hold a certificate of clinical competence in audiology of the American Speech and Hearing Association. Two members shall have paid work experience in speech pathology for at least five years and hold a certificate of clinical competence in speech pathology of the American Speech and Hearing Association. One member shall be a physician who is licensed to practice medicine in the State of North Carolina.

(b) The members of the Board shall be appointed by the Governor.

(c) The initial Board shall have members appointed for terms of one year, two years, three years, four years, and five years. Thereafter, Board members shall be appointed for a term of five years.

(d) Members of the Board shall receive no compensation for their service, but shall receive the same per diem, subsistence and travel allowance as provided in G.S. 138-5.

"§ 90-304. *Powers and duties of Board.*—The powers and duties of the Board are as follows:

(1) To administer, coordinate, and enforce the provisions of this Article, establish fees, evaluate the qualifications of applicants, supervise the examination of applicants, and issue subpoenas, examine witnesses, and administer oaths, and investigate persons engaging in practices which violate the provisions of this Article.

(2) To conduct hearings and keep records and minutes as necessary to an orderly dispatch of business.

(3) To adopt responsible rules and regulations including but not limited to regulations which establish ethical standards of practice and to amend or repeal the same.

(4) To issue annually a list stating the names of persons currently licensed under the provisions of this Article.

(5) To employ such personnel as determined by its needs and budget.

(6) To adopt seals by which it shall authenticate their proceedings, copies of the proceedings, records and the acts of the Board, and licenses.

"§ 90-305. *Fees.*—Persons subject to licensure under this act shall pay the following fees to the Board:

(1) Application fee	$25.00
(2) Examination fee	$25.00
(3) Initial license fee	$25.00
(4) Renewal license	$25.00
(5) Temporary license	$25.00
(6) Delinquency fee	$10.00

"§ 90-306. *Penalty for violation.*—Any person, partnership or corporation which engages in the professional practices required to be licensed under this act without obtaining such license, and who is not expressly exempt from the provisions of this act, shall be guilty of a misdemeanor and shall be fined not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00) or be imprisoned for a period not exceeding six months, or both, in the discretion of the court.

"§ 90-307. *Severability provision.*—If any part of this act is for any reason held unconstitutional, inoperative, or void, such holding of invalidity shall not affect the remaining portions of the act; and it shall be construed to have been the legislative intent to pass this act without such unconstitutional, invalid, or inoperative part therein; and the remainder of this act, after the exclusion of such part or parts, shall be valid as if such parts were not contained therein."

Sec. 2. G.S. 150-9 is hereby amended in line 2 by adding after the word "mean" and before the word "the" the words "the Board of Examiners for Speech and Language Pathologists and Audiologists".

Sec. 3. This act shall become effective on October 1, 1975.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. B. 557 CHAPTER 774

AN ACT TO AUTHORIZE THE ESTABLISHMENT OF A COUNTY POLICE DEPARTMENT IN WILSON COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The Board of County Commissioners of Wilson County is hereby authorized to establish a Wilson County Police Department, to establish policies and regulations to govern the operation of the department, to appropriate funds for its operation and to authorize the county manager to appoint a police chief and such other officers and employees as may be necessary.

Sec. 2. The police chief and the members of the County police department shall have all the powers and authority of peace officers and law enforcement officers provided for under the Constitution, the laws and common law of the State of North Carolina. It shall be the duty of the county policemen, under the general control and direction of the police chief, to patrol and police the county; to detect and prevent the violation of criminal laws of any and every kind; to make arrests upon their own initiative as well as upon information and complaints; to report their acts and all known or suspected violations of the criminal laws to the chief of police of the county; to obtain warrants for arrests for and to prosecute all persons who have violated any of the criminal laws; and they shall at all times obey and carry out the orders and instructions of the police chief when not inconsistent with the law and with this act. The county policemen shall have the power and authority and shall be required to serve all criminal processes and indictments issued and may perform civil duties when directed by the chief.

Sec. 3. Before entering upon the discharge of his duties, each policeman shall take and subscribe the following oaths:

"I, _____, do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office as _____, so help me, God. (I do so affirm)."

"I, _____, do solemnly swear (or affirm) that during my term of office as county policeman I will study the act creating the office in prescribing my duties and will be alert and vigilant to enforce the criminal laws of the State, and to apprehend and bring to punishment every violator of the same, and will conduct myself at all times with due consideration to all persons, and will not be influenced in any matter on account of personal bias or prejudice: so help me, God. (I do so affirm)."

The oath of office after being taken and subscribed by the policeman shall be filed with the Clerk of Superior Court of Wilson County.

Sec. 4. No county policeman, including the chief of police, shall take part in any political activity or issue, and no county policeman shall be allowed to remain in office after announcing his candidacy for any political office.

Sec. 5. Members of the county police department shall enforce the State liquor laws as contained in G.S. Chapter 18A, and shall have all powers and authority of local A.B.C. officers. The provisions of G.S. 18A-17(14) requiring county A.B.C. Boards to employ A.B.C. officers and make expenditures for law enforcement shall not apply to the Wilson County A.B.C. Board.

Sec. 6. The chief of county police, in addition to his regular duties as a county policeman, shall have full command and authority over the regular county policemen appointed under the authority of this act and shall have the right, authority and duty of giving orders and directions to the county policemen in performance of their duties.

Sec. 7. Nothing in this act shall be construed in any way as limiting or restricting the powers, duties or authority of the Sheriff of Wilson County or any of his deputies.

Sec. 8. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 9. The Wilson County Police Department may be established only by approval of the voters of the county in a referendum called for such purpose by the board of county commissioners after public hearing and prior to June 30, 1976.

Sec. 10. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. B. 960 **CHAPTER 775**

AN ACT TO PERMIT INDIVIDUAL TAXPAYERS TO DESIGNATE ON THEIR INCOME TAX RETURNS THE SUM OF ONE DOLLAR ($1.00) TO BE PAID TO THE POLITICAL PARTY OF THEIR CHOICE.

The General Assembly of North Carolina enacts:

Section 1. Article 4 of Chapter 105 of the General Statutes is hereby amended by adding thereto a new section, G.S. 105-155.2, to read as follows:

"§ 105-155.2. *Designation of tax by individual to political party.*—(a) Every individual whose income tax liability for the taxable year is one dollar ($1.00) or more may designate on his income tax return that one dollar ($1.00) of the amount of tax paid by him to the Department of Revenue which shall thereafter be paid by the Secretary of Revenue, in the manner hereinafter prescribed, to the State Treasurer for the use of the political party designated by the taxpayer. Where any taxpayer elects to so designate but does not specify a particular political party, such funds shall thereafter be distributed, in the same manner as all other funds authorized by this section, to all political parties as defined herein upon a pro rata basis according to their respective party voter registrations. For purposes of this section, political party shall mean a political party which at the last preceding general State election received at least ten percent (10%) of the entire vote cast in the State for Governor, or for presidential electors, or a group of voters who by July 1 of the preceding calendar year, by virtue of a Petition as a New Political Party, had duly qualified as a new political party within the meaning of Chapter 163 of the General Statutes of North Carolina.

(b) For each quarterly period beginning January 1, 1976, and for each quarterly period thereafter, on or before the last day of the month following the close of each quarterly period, the Secretary of Revenue shall remit all funds so designated above collected during the preceding quarter to the State Treasurer who shall thereafter deposit them in an account to be known as the North Carolina Election Campaign Fund. Any interest earned on funds so deposited shall be credited to the political party for which said funds were designated. A report to the State Treasurer, Secretary of State, and each State party chairman shall accompany each such remittance, and shall detail the amount of funds forwarded, the cumulative total of funds forwarded to date for the year, and an estimate of the probable total amount to be collected and forwarded for that calendar year.

(c) Notwithstanding the total amount of money actually collectively designated by taxpayers to be forwarded to the State Treasurer on behalf of any one particular political party, for any taxable year, any designated sums to one particular party in excess of two hundred thousand dollars ($200,000) shall not be remitted to the State Treasurer, but shall instead be placed in the General Fund of the State.

(d) The Secretary of Revenue shall amend the income tax return in order that all taxpayers desiring to make the political contributions authorized herein shall do so by designating same on the front face of the tax return immediately above the signature line. The line of authorization for such designation shall be color contrasted with the color scheme of the remainder of the income tax return. Such return, or accompanying explanatory instruction, shall readily

indicate that any such designations neither increase nor decrease an individual's tax liability."

Sec. 2. Chapter 163 of the General Statutes of North Carolina is hereby amended by adding thereto a new Article 22 to be entitled "Appropriations from the North Carolina Election Campaign Fund" and to read as follows:

"ARTICLE 22B.

"Appropriations from the North Carolina Election Campaign Fund.

"§ 163-278.36. *Appropriations in general election and off election years.*—(a) In a general election year, not later than 60 days nor earlier than 120 days before the general election, each chairman of a State political committee of a political party on behalf of which funds have been deposited in the North Carolina Election Campaign Fund, may apply to the State Treasurer for such funds. Upon receipt of such application, the State Treasurer shall forthwith, and every 30 days thereafter, pay over to said chairman all funds currently held by him on behalf of said chairman's political party, but provided that all such payments shall cease five days after the Secretary of State has certified the election returns of that general election. Any remaining funds of the political party in the hands of the State Treasurer shall thereafter be held by him until the next general election year at which time application therefor may again be made in the same manner and according to the same rules of distribution as hereinabove provided.

(b) In an off election year, each chairman of a State political committee of a political party on behalf of which funds have been deposited in the North Carolina Election Campaign Fund, may, on or between August 1 and September 1 thereof, apply to the State Treasurer for payment of an amount not to exceed fifty percent (50%) of the then available funds credited to his party's account. The remainder of said funds shall be held by the State Treasurer until the next general election year at which time application therefor may be made as prescribed in subsection (a) herein.

"§ 163-278.37. *Distribution of campaign funds, legitimate campaign expenses permitted.*—(a) Every State political committee chairman shall distribute all funds received from the North Carolina Campaign Election Fund as directed by his party, but only those party candidates with opposition for Governor, Lieutenant Governor, United States Senate, United States House of Representatives, North Carolina Supreme Court and Court of Appeals, and Council of State, shall be eligible therefor, and no such funds may be expended for or on behalf of primary election expenses, or for expenses relating to the selection of a candidate at a political convention or at a party's executive committee. No candidate who is opposed in the general election for the office of United States Senator and House of Representatives, Supreme Court, Court of Appeals and Council of State, shall receive more funds authorized herein than are distributed to any other opposed same party candidate for that particular category of public office. Provided, however, that any such candidate may elect to decline in whole or in part any funds he would be otherwise entitled to receive hereunder. No funds shall be distributed to any candidate or political committee unless it is to the actual political treasurer thereof within the meaning of Article 22A of Chapter 163 of the General Statutes.

(b) Funds distributed from the North Carolina Campaign Election Fund shall only be expended for legitimate campaign expenses which shall be expenses

proximately promoting the candidacy of individuals seeking public office. By way of illustration but not by way of limitation, the following are examples of legitimate campaign expenses:

(1) Radio, television and newspaper advertising for and on behalf of a political party or candidate;

(2) Leaflets, fliers, buttons, and stickers;

(3) Campaign staff salaries, provided each staff member is listed by name and by the amount paid as salary and the amount paid as campaign expense reimbursement;

(4) Travel expenses, lodging and food for candidate and staff;

(5) Party headquarter operations directly related to upcoming elections, including the establishment and updating thereof of computer file systems of voter registration lists, and the organizing of voter registration, fund raising, and get-out-the-vote programs at the county level when conducted by State party personnel.

"§ 163-278.38. *Report each year to Secretary of State and Executive Secretary of State Board of Elections, suspension of disbursements, willful violations a misdemeanor.*—(a) The chairman of each State political party receiving any funds from the North Carolina Campaign Election Fund shall maintain a full and complete record of their receipts, as well as of any subsequent disbursement thereof, and such shall be substantiated by any records, receipts, and information that the Executive Secretary of the State Board of Elections shall require. Such record shall be centrally located and shall be readily available at reasonable hours for public inspection. State political committees shall maintain all such funds in a separate account, and shall not allow same to be commingled with any funds from any other source.

(b) By December 31 each year, the chairman of every State political committee receiving funds from the North Carolina Campaign Election Fund shall verify to the Executive Secretary of the State Board of Elections and to the Secretary of State, in such manner and on such forms that the Executive Secretary shall require, that all such funds received were expended for legitimate campaign expenses as prescribed within this Article. If the executive secretary determines and finds as a fact that any such funds have been used for any noncampaign purposes, he shall order that State political party to reimburse the amount thereof to the General Fund of the State, and such political party shall not receive further disbursements from the North Carolina Campaign Election Fund until such reimbursement has been accomplished in full. A copy of any such order shall be forwarded to the State Treasurer, which shall constitute notice to him to suspend further disbursements from the campaign fund.

(c) Any individual, candidate, political committee, treasurer, or person who willfully and intentionally violates any of the provisions of this Article, shall be guilty of a misdemeanor and shall be fined not more than one thousand dollars ($1,000) if an individual, and not more than five thousand dollars ($5,000) if a person other than an individual, or imprisoned for not more than one year, or be both fined and imprisoned."

Sec. 3. This act shall become effective with respect to taxable years beginning on or after January 1, 1975, and shall expire on December 31, 1977.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. B. 979 **CHAPTER 776**

AN ACT TO AMEND THE PRIVILEGE TAX FOR DAY-CARE FACILITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-60 is hereby rewritten to read as follows:

"§ 105-60. *Day-care facilities.*—Every person, firm or corporation engaged in operating a day-care facility as defined by G.S. 110-86 or a child-care arrangement which provides day care for more than five children who are less than 13 years of age by persons other than their parents, grandparents, guardians or full-time custodians, away from their own homes, on a regular basis, for more than four hours per day, and which receives a payment or fee for any of the children receiving care, wherever operated, and whether or not operated for profit, shall pay an annual license tax for the privilege of operating a day-care facility. This privilege license tax for a day-care facility licensed by the Day Care Licensing Board under Article 7, Chapter 110 of the North Carolina General Statutes shall be as follows: ten dollars ($10.00) for less than 30 children; sixty dollars ($60.00) for 30 to 49 children; one hundred dollars ($100.00) for 50 to 99 children; two hundred dollars ($200.00) for 100 to 149 children; three hundred dollars ($300.00) for 150 to 200 children; and four hundred dollars ($400.00) for more than 200 children."

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. B. 1010 **CHAPTER 777**

AN ACT AUTHORIZING THE NORTH CAROLINA DEPARTMENT OF LABOR TO ASSESS AND COLLECT INSPECTION SERVICE FEES FOR THE INSTALLATION AND ALTERATION OF ELEVATORS, ESCALATORS, DUMBWAITERS AND SPECIAL EQUIPMENT AND TO ASSESS AND COLLECT INSPECTION SERVICE FEES FOR ANNUAL INSPECTIONS OF AMUSEMENT DEVICES, AERIAL PASSENGER TRAMWAYS AND INCLINED RAILROADS.

The General Assembly of North Carolina enacts:

Section 1. The North Carolina Department of Labor is hereby authorized to assess and collect the following inspection service fees for the installation and alteration of elevators, escalators, dumbwaiters other than those installed or altered in restaurants and special equipment, based on the cost of installation or alteration:

Cost of Installation or Alteration	Unit Fee
$0 - $ 10,000	$ 70
$10,001 - $ 30,000	$110
$30,001 - $ 50,000	$155
$50,001 - $ 80,000	$195
$80,001 - $100,000	$215
Over $100,000	$260

Sec. 2. The North Carolina Department of Labor is hereby authorized to assess and collect the following inspection service fees for annual inspections for

each location within the State of amusement devices, aerial passenger tramways and inclined railroads:

Type Inspection	Unit Fee
Amusement Devices	$ 10
Gondolas, Chairlifts and Inclined Railroads	$125
J- or T-Bars	$ 56
Rope Tows	$ 28

Sec. 3. The assessment of the fees pursuant to this act shall be made against the owner or operator of such equipment and shall be collected at the time of inspection. Certificates of safe operation shall be withheld by the Department of Labor until such time as the assessed fees are collected.

Sec. 4. All fees collected by the Department of Labor pursuant to this act shall be deposited with the State Treasurer and shall be used exclusively for inspection purposes of the equipment referenced in this act.

Sec. 5. Inspection of erection of rides is related solely to carnivals and fairs.

Sec. 6. This act shall become effective January 1, 1976.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. B. 1191 CHAPTER 778

AN ACT TO AMEND THE CHARTER OF THE CITY OF GASTONIA CONTAINED IN CHAPTER 910 OF THE 1971 SESSION LAWS OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. Chapter 910 of the 1971 Session Laws, being the Charter of the City of Gastonia, is hereby amended as follows:

(a) Section 4.22 is hereby amended and rewritten to read:

"The City of Gastonia Board of Alcoholic Beverage Control shall have all the powers and duties prescribed for county boards of alcoholic control in Section 18A-17 of the General Statutes of North Carolina, except the powers contained in subsection (14) thereof, and shall be subject to the powers and authority of the State Board of Alcoholic Control to the same extent as are county boards of alcoholic control under Section 18A-15 of the General Statutes of North Carolina except as to the powers and authority of said State Board contained in subsection (10) thereof. The City of Gastonia Board of Alcoholic Beverage Control shall also be subject to the provisions of Articles 1, 2, 3, and 4 of Chapter 18A of the General Statutes of North Carolina except to the extent that such provisions may be in conflict with this Charter. Whenever the word 'county' board of alcoholic control appears in said Chapter, it shall apply to and include the City of Gastonia Board of Alcoholic Beverage Control. The City of Gastonia Board of Alcoholic Beverage Control shall have the authority to employ legal counsel, accountants, and such other agents or employees as it may deem necessary and fix their compensation."

(b) Section 4.24 is hereby amended and rewritten to read:

"Issuance of Licenses. Only licenses permitting the off-premises consumption of malt beverages, native wines and unfortified wines as defined in Section

18A-2 of the General Statutes of North Carolina shall be permitted notwithstanding any public, special, local or private acts to the contrary."

(c) Section 4.25 is hereby amended by deleting the reference to Chapter 18 of the General Statutes of North Carolina and substituting in lieu thereof the words "Chapter 18A of the General Statutes of North Carolina."

(d) Subchapter B of Chapter IV is further amended by adding the following sections thereto:

"Section 4.26. Restriction on Location. The City of Gastonia Board of Alcoholic Beverage Control shall set up and operate alcoholic beverage control stores only within the corporate limits of the City of Gastonia.

"Section 4.27. Restrictions on Use. Notwithstanding any public, special, local or private acts to the contrary, it shall be unlawful for any person to consume or drink any malt beverages, unfortified wines or native wines as defined in Article 1 of Chapter 18A of the General Statutes of North Carolina, in the City of Gastonia except:

(a) On the premises of his private residence or in any hotel or motel room that said person has rented, or on the premises of any private residence of another or in any hotel or motel room rented by another and to which he is invited, where permission has been given to said person by the owner, a member of his household or immediate family, such renter, or person lawfully in possession of any such residence or room.

(b) On the premises of an establishment which is organized and operated solely for purposes of a social, recreational, patriotic or fraternal nature, is not open to the general public and restricts the use of its premises and facilities strictly to that of its members and their bona fide guests, and has a valid permit from the North Carolina State Board of Alcoholic Control for the purposes set forth in Section 18A-30(2) of Article 3, Chapter 18A, of the General Statutes of North Carolina.

(c) At a private meeting or party held in an area not in view of the general public on the premises of a commercial establishment or any part thereof and limited in attendance to members or the bona fide guests of a particular group, association or organization or to the bona fide guests of a particular person, and for which special occasion such commercial establishment has obtained a valid permit from the North Carolina State Board of Alcoholic Control for the purpose set forth in Section 18A-30(3) of Article 3, Chapter 18A of the General Statutes of North Carolina.

(d) On the premises of any organized church or other religious society in connection with any worship service or religious ceremony.

(e) On the premises of any hospital or sanatorium established and maintained for the treatment of patients when prescribed by a licensed physician as a method of treatment of such person as a patient therein.

(f) A violation of this section shall constitute a misdemeanor."

(e) Subchapter D of Chapter IV is amended by deleting the words "Gaston Regional Planning Commission" wherever they appear and substituting in lieu thereof the words "Gastonia Planning Commission".

(f) Section 5.17 is hereby amended and rewritten to read:

"In case any charge for utility service or for the use of utility facilities is not paid within 10 days after it becomes due, the same shall become a lien upon the real property served or in connection with which the service or facility is used and upon all personal property situated upon such real property. The charge may

at any time thereafter be collected by: (a) levy and sale as prescribed by Section 105-367 of the General Statutes of North Carolina in the case of tangible personal property or (b) foreclosure by the in rem method as specified in Section 105-375 of the General Statutes of North Carolina or (c) foreclosure of the tax lien in the nature of an action to foreclose a mortgage as specified in Section 105-374 of the General Statutes of North Carolina in the case of real property or (d) attachment of bank deposits and garnishment of wages as specified in Section 105-368 of the General Statutes of North Carolina."

(g) Section 4.91 is amended by adding the following subsection thereto:

"(c) No ordinance making or approving the renewal or extension of a public utility franchise or modifying the schedule of rates contained in such a franchise shall be finally adopted until it has been passed at two regular meetings of the City Council and no such renewal, extension, amendment or rate modification shall be made otherwise than by ordinance. Before adopting any such ordinance authorized by this section, the City Council shall hold a public hearing on it. A notice of the public hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be furnished for the first time not less than 15 days nor more than 25 days before the date fixed for the first regular meeting of the City Council to consider the matter."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

S. B. 300 **CHAPTER 779**

AN ACT TO AMEND G.S. 14-202.1 TO DELETE THE REQUIREMENT OF INTENT TO COMMIT AN UNNATURAL SEX ACT FROM THE CRIME OF TAKING INDECENT LIBERTIES WITH CHILDREN AND TO INCREASE THE PUNISHMENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-202.1 is rewritten to read as follows:

"§ 14-202.1. *Taking indecent liberties with children.*—(a) A person is guilty of taking indecent liberties with children if, being 16 years of age or more and at least five years older than the child in question, he either:

(1) Wilfully takes or attempts to take any immoral, improper, or indecent liberties with any child of either sex under the age of 16 years for the purpose of arousing or gratifying sexual desire; or

(2) Wilfully commits or attempts to commit any lewd or lascivious act upon or with the body or any part or member of the body of any child of either sex under the age of 16 years.

(b) Taking indecent liberties with children is a felony punishable by a fine, imprisonment for not more than ten years, or both."

Sec. 2. This act shall become effective on October 1, 1975.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

S. B. 420 **CHAPTER 780**

AN ACT TO ESTABLISH AN EXPANSION POLICY FOR ELECTRIC UTILITY PLANTS IN NORTH CAROLINA, TO PROMOTE GREATER EFFICIENCY IN THE USE OF ALL EXISTING PLANTS, AND TO REDUCE ELECTRICITY COSTS BY REQUIRING GREATER CONSERVATION OF ELECTRICITY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 62-110.1 is hereby amended by adding the following new subsections:

"(c) The commission shall develop, publicize, and keep current an analysis of the long-range needs for expansion of facilities for the generation of electricity in North Carolina, including its estimate of the probable future growth of the use of electricity, the probable needed generating reserves, the extent, size, mix and general location of generating plants and arrangements for pooling power to the extent not regulated by the Federal Power Commission and other arrangements with other utilities and energy suppliers to achieve maximum efficiencies for the benefit of the people of North Carolina, and shall consider such analysis in acting upon any petition by any utility for construction. In developing such analysis, the commission shall confer and consult with the public utilities in North Carolina, the utilities commissions or comparable agencies of neighboring states, the Federal Power Commission, the Southern Growth Policies Board, and other agencies having relevant information and may participate as it deems useful in any joint boards investigating generating plant sites or the probable need for future generating facilities. In addition to such reports as public utilities may be required by statute or rule of the commission to file with the commission, any such utility in North Carolina may submit to the commission its proposals as to the future needs for electricity to serve the people of the State or the area served by such utility, and insofar as practicable, each such utility and the Attorney General may attend or be represented at any formal conference conducted by the commission in developing a plan for the future requirements of electricity for North Carolina or this region. In the course of making the analysis and developing the plan, the commission shall conduct one or more public hearings. Each year, the commission shall submit to the Governor and to the appropriate committees of the General Assembly a report of its analysis and plan, the progress to date in carrying out such plan, and the program of the commission for the ensuing year in connection with such plan.

(d) In acting upon any petition for the construction of any facility for the generation of electricity, the commission shall take into account the applicant's arrangements with other electric utilities for interchange of power, pooling of plant, purchase of power and other methods for providing reliable, efficient and economical electric service.

(e) As a condition for receiving such certificate the applicant shall file an estimate of construction costs in such detail as the commission may require. The commission shall hold a public hearing on each such application and no certificate shall be granted unless the commission has approved the estimated construction costs and made a finding that such construction will be consistent with the commission's plan for expansion of electric generating capacity.

(f) The commission shall maintain an on-going review of such construction as it proceeds and the applicant shall submit each year during construction a progress report and any revisions in the cost estimates for the construction."

Sec. 2. Article 7 of Chapter 62 of the General Statutes is hereby amended by adding the following new sections:

"§ 62-155. *Electric power rates to promote conservation.*—(a) It is the policy of the State to conserve energy through efficient utilization of all resources.

(b) If the Utilities Commission after study determines that conservation of electricity and economy of operation for the public utility will be furthered thereby, it shall direct each electric public utility to notify its customers by the most economical means available of the anticipated periods in the near future when its generating capacity is likely to be near peak demand and urge its customers to refrain from using electricity at these peak times of the day. In addition, each public utility shall, insofar as practicable, investigate, develop, and put into service, with approval of the commission, procedures and devices that will temporarily curtail or cut off certain types of appliances or equipment for short periods of time whenever an unusual peak demand threatens to overload its system.

(c) The commission itself shall inform the general public as to the necessity for controlling demands for electricity at peak periods and shall require the several electric public utilities to carry out its program of information and education in any reasonable manner.

(d) The commission shall study the feasibility of and, if found to be practicable, just and reasonable, make plans for the public utilities to bill customers by a system of non-discriminatory peak pricing, with incentive rates for off-peak use of electricity charging more for peak periods than for off-peak periods to reflect the higher cost of providing electric service during periods of peak demand on the utility system. No order regarding such rates shall be issued by the commission without a prior public hearing, whether in a single electric utility company rate case or in general orders relating to two or more or all electric utilities.

(e) No Class A electric public utility shall apply for any rate change unless it files at the time of the application a report of the probable effect of the proposed rates on peak demand on it and its estimate of the kilowatt hours of electricity that will be used by its customers during the ensuing one year and five years from the time such rates are proposed to become effective."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

S. B. 699 **CHAPTER 781**

AN ACT TO CALL UPON A QUALIFIED RESEARCH ORGANIZATION FOR THE DEVELOPMENT OF AN EXAMINATION OR EXAMINATIONS FOR THE CERTIFICATION OF TEACHERS.

Whereas, it is of vital importance to the future development of this State and the well-being of all its citizens that the children of this State be provided with competent instruction in the classroom; and

Whereas, it is self-evident that to achieve this end the teachers of this State must possess some minimum level of academic competence; and

Whereas, there are qualified scientific research organizations having the abilities and resources to develop an examination to assess the academic competence and preparation of prospective teachers; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The State Board of Education is hereby directed to prepare a request for proposals to be submitted to qualified scientific research organizations or institutions to develop an examination or examinations to ensure that teachers applying for certification have at least the minimum knowledge required to effectively teach in the public schools of the State. It is the legislative intent that such examination(s) shall be so designed that they can be administered at the initial certification level at degree granting institutions of higher education located within the State. The request for proposals is to set forth as clearly as possible the statement of work to be performed by the contractor.

Sec. 2. The State Board of Education is further directed to submit the request for proposals to the Department of Administration for review, and subsequently to provide the request for proposals, along with an itemized estimate of the probable contract cost, to the Second Session (1976) of the 1975 General Assembly.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

S. B. 828 **CHAPTER 782**

AN ACT TO ENHANCE ENFORCEMENT OF THE CONTROLLED SUBSTANCES ACT.

The General Assembly of North Carolina enacts:

Section 1. Article 5 of Chapter 90 of the General Statutes is hereby amended by adding a new section, G.S. 90-95.2, to read as follows:

"§ 90-95.2. *Cooperation between law enforcement agencies.*—(a) The head of any law enforcement agency may temporarily provide assistance to another agency in enforcing the provisions of this Article, if so requested in writing by the head of the other agency. The assistance may comprise allowing officers of the agency to work temporarily with officers of the other agency (including in an undercover capacity) and lending equipment and supplies. While working with another agency under the authority of this section, an officer shall have the same jurisdiction, powers, rights, privileges, and immunities as the officers of the requesting agency, in addition to those he normally possesses. While on duty with the other agency, he shall be subject to the lawful operational commands of

his superior officers in the other agency, but he shall for personnel and administrative purposes remain under the control of his own agency, including for purposes of pay. He shall furthermore be entitled to workmen's compensation when acting pursuant to this section to the same extent as though he were functioning within the normal scope of his duties.

(b) As used in this section:

(1) 'Head' means any director or chief officer of a law enforcement agency, including the chief of police of a local police department and the sheriff of a county, or an officer of the agency to whom the head of the agency has delegated authority to make or grant requests under this section, but only one officer in the agency shall have this delegated authority at any time.

(2) 'Law enforcement agency' means any State or local agency, force, department, or unit responsible for enforcing criminal laws in this State, including any local police department or sheriff's department.

(c) This section in no way reduces the jurisdiction or authority of State law enforcement officers."

Sec. 2. Article 5 of Chapter 90 of the General Statutes is hereby amended by adding a new section, G.S. 90-95.3, to read as follows:

"§ 90-95.3. *Restitution to law enforcement agencies for undercover buys.*— When any person is convicted of an offense under this Article, the court may order him to make restitution to any law enforcement agency for reasonable expenditures made in purchasing controlled substances from him or his agent as part of an investigation leading to his conviction."

Sec. 3. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

S. B. 830 CHAPTER 783

AN ACT TO AMEND G.S. 14-100 TO ENLARGE THE DEFINITION OF FALSE PRETENSE TO ENCOMPASS MODERN ORGANIZATIONS AND TO PROHIBIT FALSE PRETENSES CONCERNING FUTURE EVENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-100 is rewritten to read as follows:

"§ 14-100. *Obtaining property by false pretenses.*—(a) If any person shall knowingly and designedly by means of any kind of false pretense whatsoever, whether the false pretense is of a past or subsisting fact or of a future fulfillment or event, obtain or attempt to obtain from any person within this State any money, goods, property, services, chose in action, or other thing of value with intent to cheat or defraud any person of such money, goods, property, services, chose in action or other thing of value, such person shall be guilty of a felony, and shall be imprisoned in the State's prison not less than four months nor more than 10 years, and fined, in the discretion of the court: Provided, that if, on the trial of anyone indicted for such crime, it shall be proved that he obtained the property in such manner as to amount to larceny or embezzlement, the jury shall have submitted to them such other felony proved; and no person tried for such felony shall be liable to be afterwards prosecuted for larceny or embezzlement upon the same facts: Provided, further, that it shall be sufficient

in any indictment for obtaining or attempting to obtain any such money, goods, property, services, chose in action, or other thing of value by false pretenses to allege that the party accused did the act with intent to defraud, without alleging an intent to defraud any particular person, and without alleging any ownership of the money, goods, property, services, chose in action or other thing of value; and upon the trial of any such indictment, it shall not be necessary to prove either an intent to defraud any particular person or that the person to whom the false pretense was made was the person defrauded, but it shall be sufficient to allege and prove that the party accused made the false pretense charged with an intent to defraud.

(b) Evidence of nonfulfillment of a contract obligation standing alone shall not establish the essential element of intent to defraud.

(c) For purposes of this section, 'person' means person, association, consortium, corporation, body politic, partnership, or other group, entity, or organization."

Sec. 2. This act shall become effective on October 1, 1975.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

S. B. 876 **CHAPTER 784**

AN ACT TO AMEND G.S. 143-215.107 RELATING TO AIR QUALITY STANDARDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-215.107, as it appears in the 1974 Cumulative Supplement to Volume 3C of the General Statutes is hereby amended by adding to the end thereof a new subsection (f) to read as follows:

"(f) In adopting air quality policies, rules, regulations and procedures, the Environmental Management Commission or any other State or local regulatory body shall be guided by the same standards, definitions, considerations and criteria set forth, from time to time, in federal law, rules or regulations for the guidance of federal, State or local agencies administering the Federal Clean Air Program."

It is the intent of the General Assembly that the air quality rules, regulations and procedures promulgated by the Environmental Management Commission or any other State or local regulatory body under the General Statutes of North Carolina shall be no more restrictive than those adopted by the United States Environmental Protection Agency.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. B. 502 **CHAPTER 785**

AN ACT TO PROVIDE FOR THE DISTRIBUTION AND SALE BY THE SECRETARY OF STATE OF THE REVISED AND UPDATED EDITION OF THE 1913 *NORTH CAROLINA MANUAL* ENTITLED *NORTH CAROLINA GOVERNMENT, 1585-1974: A NARRATIVE AND STATISTICAL HISTORY.*

Whereas, under authorized provisions there is being printed an updated and revised edition of the 1913 *North Carolina Manual* entitled *North Carolina Government, 1585-1974: A Narrative and Statistical History*; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. That one copy of said volume shall be furnished each person who served as a member in either the 1971, 1973 or 1975 sessions of the North Carolina General Assembly, and that the Secretary of State shall distribute such number of copies of said volume to such other individuals and institutions as is set forth in the table below:

Governor	1
Lieutenant Governor	1
Members of the Council of State	1 ea
Secretaries of the State Departments	1 ea
Justices of the North Carolina Supreme Court	1 ea
Judges of the North Carolina Court of Appeals	1 ea
North Carolina Members of the United States Congress	1 ea
Former living Governors of North Carolina	1 ea
North Carolina State Library	5
North Carolina Supreme Court Library	2
North Carolina Court of Appeals Library	2
North Carolina Legislative Library	2
North Carolina Archives - Search Room	2
Library of Congress	2
University of North Carolina - Chapel Hill	25
University of North Carolina - Asheville	2
University of North Carolina - Charlotte	2
University of North Carolina - Greensboro	2
University of North Carolina - Wilmington	2
North Carolina State University - Raleigh	5
Appalachian State University	2
East Carolina University	2
Elizabeth City State University	2
Fayetteville State University	2
North Carolina Agriculture and Technical University	2
North Carolina Central University	2
Pembroke State University	2
Western Carolina University	2
Winston-Salem State University	2
North Carolina School of the Arts	1
Duke University	6
Wake Forest University	6
Davidson College	2
All other Private Colleges and Universities	1 ea

North Carolina Community Colleges	1 ea
Private Junior Colleges	1 ea
North Carolina Public Schools with any or all of grades 7-12	1 ea

Sec. 2. The Secretary of State is authorized and directed to sell the remaining volumes at the publishing cost—typesetting and printing and binding—plus tax and postage, with the proceeds from such sales to be deposited in a special fund for the sole purpose of reprinting said volume or supplements thereto.

Sec. 3. That all laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. B. 920 CHAPTER 786

AN ACT TO AMEND G.S. 20-146.1 PERTAINING TO THE OPERATION OF MOTORCYCLES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-146.1 is hereby amended by rewriting the same to read as follows:

"(a) All motorcycles are entitled to full use of a lane and no motor vehicle shall be driven in such a manner as to deprive any motorcycle of the full use of a lane. This subsection shall not apply to motorcycles operated two abreast in a single lane.

(b) Motorcycles shall not be operated more than two abreast in a single lane."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. B. 997 CHAPTER 787

AN ACT TO CLARIFY THE MEANING OF PUBLIC RECORDS AND TO PROVIDE A CIVIL REMEDY FOR THE RECOVERY OF PUBLIC RECORDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 132-1 is rewritten to read as follows:

"§ 132-1. *Public records defined.*—'Public record' or 'public records' shall mean all documents, papers, letters, maps, books, photographs, films, sound recordings, magnetic or other tapes, electronic data processing records, artifacts, or other documentary material, regardless of physical form or characteristics, made or received pursuant to law or ordinance in connection with the transaction of public business by any agency of North Carolina government or its subdivisions. Agency of North Carolina government or its subdivisions shall mean and include every public office, public officer or official (State or local, elected or appointed), institution, board, commission, bureau, council, department, authority or other unit of government of the State or of any county, unit, special district or other political subdivision of government."

Sec. 2. Chapter 132 of the General Statutes is hereby amended by adding a new Section "132-5.1" to read as follows:

"§ 132-5.1. *Regaining custody; civil remedies.*—(a) The Secretary of the Department of Cultural Resources or his designated representative or any public official who is the custodian of public records which are in the possession of a person or agency not authorized by the custodian or by law to possess such public records may petition the Superior Court in the county in which the person holding such records resides or in which the materials in issue, or any part thereof, are located for the return of such public records. The court may order such public records to be delivered to the petitioner upon finding that the materials in issue are public records and that such public records are in the possession of a person not authorized by the custodian of the public records or by law to possess such public records. If the order of delivery does not receive compliance, the petitioner may request that the court enforce such order through its contempt power and procedures.

(b) At any time after the filing of the petition set out in subsection (a) or contemporaneous with such filing, the public official seeking the return of the public records may by ex parte petition request the judge or the court in which the action was filed to grant one of the following provisional remedies:

(1) An order directed at the sheriff commanding him to seize the materials which are the subject of the action and deliver the same to the court under the circumstances hereinafter set forth; or

(2) A preliminary injunction preventing the sale, removal, disposal or destruction of or damage to such public records pending a final judgment by the court.

(c) The judge or court aforesaid shall issue an order of seizure or grant a preliminary injunction upon receipt of an affidavit from the petitioner which alleges that the materials at issue are public records and that unless one of said provisional remedies is granted, there is a danger that such materials shall be sold, secreted, removed out of the State or otherwise disposed of so as not to be forthcoming to answer the final judgment of the court respecting the same; or that such property may be destroyed or materially damaged or injured if not seized or if injunctive relief is not granted.

(d) The aforementioned order of seizure or preliminary injunction shall issue without notice to the respondent and without the posting of any bond or other security by the petitioner."

Sec. 3. G.S. 132-9 is hereby rewritten to read as follows:

"§ 132-9. *Access to records.*—Any person who is denied access to public records for purposes of inspection, examination or copying may apply to the appropriate division of the General Court of Justice for an order compelling disclosure, and the court shall have jurisdiction to issue such orders."

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. B. 1039 CHAPTER 788

AN ACT TO AMEND G.S. 58-3.1 DEALING WITH MOTOR VEHICLE WARRANTIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-3.1 as the same appears in the 1975 Replacement to Volume 2B of the North Carolina General Statutes is hereby amended by inserting after the word "charge" in line 3 the following language: "or an extended warranty offered as an option by a manufacturer for charge".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. B. 1044 CHAPTER 789

AN ACT TO AUTHORIZE THE STATE BOARD OF ELECTIONS TO CLARIFY REGISTRATION RECORDS OF PERSONS AFFILIATED WITH AN EXPIRED POLITICAL PARTY.

The General Assembly of North Carolina enacts:

Section 1. Article 9, Chapter 163 of the General Statutes of North Carolina, as the same appears in the 1974 Cumulative Supplement to Volume 3D, is amended by adding a new section to be numbered and to read as follows:

"§ 163-97.1. *Voters affiliated with expired political party.*—The State Board of Elections shall be authorized to promulgate appropriate procedures to order the county boards of elections to change the registration affiliation of all voters who are recorded on the voter registration books as being affiliated with a political party which has lost its legal status as provided in G.S. 163-97. The State Board of Elections shall not implement the authority contained in this act earlier than 90 days following the certification of the election in which the political party failed to continue its legal status as provided in G.S. 163-97. All voters affiliated with such expired political party shall be changed to 'no party' designation by the State Board's order and all such registrants shall be entitled to declare a political party affiliation on primary election day, consistent with the provisions contained in G.S. 163-74(a)."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. B. 1114 CHAPTER 790

AN ACT TO AMEND G.S. 90-89 TO INCLUDE DIFENOXIN IN SCHEDULE I OF CONTROLLED SUBSTANCES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-89, as the same appears in the 1974 Cumulative Supplement to Volume 2C of the General Statutes, is hereby amended by adding Difenoxin to the alphabetical listing of controlled substances between "Diethylthiambutene" and "Dimenoxadol", numbering Difenoxin as controlled substance number 16 and renumbering the subsequently listed controlled substances consecutively, Dimenoxadol being controlled substance number 17 through Trimeperidine as controlled substance number 44.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. B. 1117 CHAPTER 791

AN ACT TO AMEND CHAPTER 1286, SESSION LAWS 1973 (THE PRETRIAL CRIMINAL PROCEDURE ACT) TO AUTHORIZE CONTINUED USE OF PRETRIAL RELEASE PROGRAMS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-535, as contained in 1974 Advance Legislative Services to the General Statutes of North Carolina, Pamphlet No. 6, is amended by redesignating the present text as G.S. 15A-535(a), and adding a new subsection to read as follows:

"(b) In any county in which there is a pretrial release program, the senior resident superior court judge of the judicial district may, after consultation with the chief district court judge, order that defendants accepted by such program for supervision shall, with their consent, be released by judicial officials to supervision of such programs, and subject to its rules and regulations, in lieu of releasing the defendants on conditions (1), (2), or (3) of G.S. 15A-534(a)."

Sec. 2. This act shall become effective the same date that Chapter 1286, Session Laws 1973 becomes effective.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

S. B. 582 CHAPTER 792

AN ACT TO PROVIDE FOR INFORMATION ON STATE TAX EXPENDITURES AS RESOURCE DATA IN CONNECTION WITH THE STATE BUDGET.

The General Assembly of North Carolina enacts:

Section 1. Part I of Article 4 of Chapter 143 of the General Statutes of North Carolina is hereby amended by adding a new section G.S. 143B-221.1 to read as follows:

"§ 143B-221.1. *Department of Revenue - tax expenditure report.*—The Secretary of Revenue shall prepare a biennial State tax expenditure report to be submitted to the Director of the Budget and the Advisory Budget Commission on or before October 1 of each even-numbered year and to be submitted to the General Assembly at the convening of the regular legislative session on each odd-numbered calendar year. The report shall contain a list of 'tax expenditures' contained in Subchapters I, V, and VIII of Chapter 105 of the General Statutes of North Carolina. For the purposes of the section a 'tax expenditure' shall mean a provision in the tax laws which by exemption, exclusion, deduction, allowance, credit, deferral, refund, preferential tax rate, or other device, reduces the amount of net tax revenues that would otherwise be collected, and which is for the purpose of attaining some State policy objective or objectives, either implied or stated.

The biennial report of the Secretary herein required shall include estimates of the amount by which revenue is reduced by each 'tax expenditure', to the extent that such estimates can be ascertained from examination of the records of

the Department of Revenue, without incurring any additional costs of operating the Department of Revenue (except the cost of publishing said report), other than amounts specifically appropriated for that purpose and in the absence of such appropriation, the Secretary of Revenue shall not be required to devote any resources of the Department of Revenue for that purpose if doing so will impair the performance of his other duties and responsibilities.

The departments, bureaus, divisions, officers, commissions, institutions, and other agencies of the State shall, upon request, furnish the Secretary of Revenue, in such form and at such time as he may direct, any information required to facilitate the completion of the tax expenditure report.

The purpose of the tax expenditure report is to facilitate a continuous evaluation and review through the budgetary process of the impact of both direct State appropriations and tax expenditures on the attainment of State policy objectives."

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

S. B. 843 CHAPTER 793

AN ACT TO REQUIRE THE DISTRICT COURT TO HOLD A HEARING TO DETERMINE WHETHER AN ADJUDICATED JUVENILE'S CONDITIONAL RELEASE SHOULD BE REVOKED.

Whereas, the General Assembly recognizes the need for due process in the procedure for revocation of conditional release of juveniles committed to the Department of Correction; and

Whereas, the General Court of Justice through its juvenile justice system has particular expertise in the area of juvenile law; Now, therefore,

The General Assembly of North Carolina enacts:

Sec. 1. Article 23 of Chapter 7A of the General Statutes of North Carolina is amended by adding a new section G.S. 7A-286.1 to read as follows:

"§ 7A-286.1. *Revocation of conditional release hearings.*—The district court having jurisdiction over a juvenile on conditional release from a Department of Human Resources institution or agency shall hold a conditional release revocation hearing upon motion for review from the juvenile's court counselor or the Secretary of the Department of Human Resources or his designee. If the district court finds that the juvenile has violated the terms of his conditional release the court may revoke said conditional release or make any other disposition that the court feels to be in the best interest of the child.

With respect to any hearing pursuant to this Article, the juvenile:

(a) Shall have reasonable notice in writing of the nature and content of the allegations in the petition, including notice that the purpose of the hearing is to determine whether the juvenile has violated the terms of his conditional release to the extent that his conditional release should be revoked.

(b) Shall be permitted to be represented by legal counsel at the hearing. If the juvenile shall be found to be indigent, the provisions of G.S. 7A-450 will apply.

(c) Shall have the right to confront and cross-examine any persons who have made allegations against him, unless the court determines that such confrontation would present a substantial present or subsequent danger of harm to such person or persons.

(d) May admit, deny or explain the violation alleged and may present proof, including affidavits or other evidence, in support of his contentions. A record of the proceeding shall be made and preserved in the child's juvenile record."

Sec. 2. All laws or clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

S. B. 872 **CHAPTER 794**

AN ACT TO AUTHORIZE THE BOARD OF COUNTY COMMISSIONERS OF SCOTLAND COUNTY TO ESTABLISH A COUNTY POLICE DEPARTMENT.

The General Assembly of North Carolina enacts:

Section 1. The Board of County Commissioners of Scotland County is hereby authorized, by ordinance duly adopted, to establish a county police department for the purpose of better law enforcement in the county.

If the board of commissioners establishes a county police department, it shall be operated under the control of the board of commissioners as any other county department. The board shall have all the powers conferred by general law in the administration of the police department.

Sec. 2. The chief of the county police and each member of the police force shall have full power of arrest and to serve and execute both criminal and civil process throughout the county.

Sec. 3. In the ordinance establishing the county police department, the board of commissioners may, at its option, assume full control and responsibility for the operation of the county jail and the care and custody of persons placed therein and shall appoint the jailer and such other personnel required to operate the jail. The board of commissioners, in its discretion, may leave the care and custody of the jail under the supervision of the county sheriff, but the ordinance creating the county police department shall specify whether the sheriff or the commissioners shall have the care and custody of the jail.

Sec. 4. If the board of county commissioners creates a county police department, its primary duty shall be the enforcement of the criminal laws within the county and the primary duty of the sheriff shall be to serve and execute civil process, and perform such other civil duties as may be imposed by law. The sheriff shall attend upon the superior and district courts within the county.

Sec. 5. If the county police department is created and established, any municipality in the county is authorized to enter into an agreement with the board of county commissioners for the county to provide police protection in the municipality. The terms of the agreement shall be such as the parties mutually agree.

Sec. 6. The Scotland County Police Department may be established only by approval of the voters of the county in a referendum called for such purpose by the board of county commissioners after public hearing and prior to June 30, 1976.

Sec. 7. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

S. B. 931 CHAPTER 795

AN ACT TO DECLARE VACANT THE OFFICE PRESENTLY HELD BY THE MEMBER OF THE WARREN COUNTY BOARD OF EDUCATION RESIDING WITHIN HALIFAX COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The provisions of Section 11 of Chapter 601 of the 1973 Session Laws notwithstanding, the term of office of the present member of the Warren County Board of Education residing in the town of Littleton in Halifax County shall expire on July 1, 1975 and the vacancy resulting therefrom filled by the Board of County Commissioners.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. B. 83 CHAPTER 796

AN ACT TO AMEND G.S. 15-183 TO REQUIRE THE STATE DEPARTMENT OF CORRECTION TO ASSUME FINANCIAL RESPONSIBILITY FOR PERSONS COMMITTED FOR APPELLATE SAFEKEEPING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15-183, as the same was amended by Section 15 of Chapter 1286 of the Session Laws of 1973 to become effective July 1, 1975, as the same appears in the Editor's Note in the 1974 Cumulative Supplement of the 1965 Replacement Volume 1C of the General Statutes of North Carolina, is hereby amended by the addition of the following paragraph at the end thereof:

"The provisions of G.S. 162-39, G.S. 148-4, G.S. 148-29 and G.S. 15-184 notwithstanding, the expense of maintaining any such person placed in the custody of the Secretary of Correction pending appeal shall be the responsibility of the Department of Correction, as if such person had been committed upon affirmance of appeal, and the Department of Correction shall assume full financial responsibility and shall not charge the forwarding county with the cost and expense of maintaining such person pending appeal. Provided, nothing herein shall be deemed to relieve any county of the obligation to pay any indebtedness accruing prior to the effective date of this act for the cost and expense of maintaining persons forwarded to the Department of Correction by that county. If the amount of indebtedness accrued by any county has not been paid in full within 24 months from the effective date of this act, the State Treasurer is hereby authorized to deduct the amount of that indebtedness from the intangible personal property taxes to be distributed to that county. If a county retains custody of a person who has been convicted, but has appealed such conviction, the Department of Correction shall pay to such county the same amount of money that would be required to maintain such person in the Department of Correction."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. B. 661 **CHAPTER 797**

AN ACT TO BE KNOWN AS THE PROTECTION OF THE ABUSED, NEGLECTED, OR EXPLOITED DISABLED ADULT ACT.

The General Assembly of North Carolina enacts:

Section 1. Article 4 of Chapter 108 of the General Statutes is hereby rewritten to read as follows:

"ARTICLE 4.

"Protection of the Abused, Neglected, or Exploited Disabled Adult Act.

"§ 108-91. *Short title.*—This Article may be cited as the Protection of the Abused, Neglected, or Exploited Disabled Adult Act.

"§ 108-92. *Legislative intent and purpose.*—Determined to protect the increasing number of disabled adults in North Carolina who are abused, neglected, or exploited, the General Assembly enacts this Article to provide protective services for such persons.

"§ 108-93. *Definitions.*—(a) The words 'disabled adult' shall mean any person 18 years of age or over who is present in the State of North Carolina and who is physically or mentally incapacitated due to mental retardation, cerebral palsy, epilepsy; organic brain damage caused by advanced age or other physical degeneration in connection therewith; or due to conditions incurred at any age which are the result of accident, organic brain damage, mental or physical illness, or continued consumption or absorption of substances.

(b) A 'disabled adult' shall be 'in need of protective services' if that person, due to his physical or mental incapacity, is unable to perform or obtain for himself essential services and if that person is without able, responsible, and willing persons to perform or obtain for him essential services.

(c) The words 'essential services' shall refer to those social, medical, psychiatric, or legal services necessary to safeguard the disabled adult's rights and resources and to maintain the physical or mental well-being of the individual. These services shall include but not be limited to the provision of medical care for physical and mental health needs, assistance in personal hygiene, food, clothing, adequately heated and ventilated shelter, protection from health and safety hazards, protection from physical mistreatment, and protection from exploitation. The words 'essential services' shall not include taking the person into physical custody without his consent except as provided for in G.S. 108-98 and in Chapter 122 of the General Statutes.

(d) The words 'protective services' shall mean services provided by the State or other government or private organizations or individuals which are necessary to protect the disabled adult from abuse, neglect, or exploitation. They shall consist of evaluation of the need for service and mobilization of essential services on behalf of the disabled adult.

(e) The word 'abuse' means the willful infliction of physical pain, injury or mental anguish, unreasonable confinement, or the willful deprivation by a caretaker of services which are necessary to maintain mental and physical health.

(f) The word 'neglect' refers to a disabled adult who is either living alone and not able to provide for himself the services which are necessary to maintain his mental and physical health or is not receiving the services from his caretaker.

(g) The word 'exploitation' means the illegal or improper use of a disabled adult or his resources for another's profit or advantage.

(h) The word 'emergency' refers to a situation where (i) the disabled adult is in substantial danger of death or irreparable harm if protective services are not provided immediately, (ii) the disabled adult is unable to consent to services, (iii) no responsible, able, or willing caretaker is available to consent to emergency services, and (iv) there is insufficient time to utilize procedure provided in G.S. 108-97.

(i) The words 'emergency services' refer to those services necessary to maintain the person's vital functions and without which there is reasonable belief that the person would suffer irreparable harm or death. This may include taking physical custody of the disabled person.

(j) The words 'lacks the capacity to consent' shall mean lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his person, included but not limited to provisions for health care, food, clothing, or shelter, because of physical or mental incapacity. This may be reasonably determined by the director or he may seek a physician's or psychologist's assistance in making this determination.

(k) The word 'director' shall mean the director of the county Department of Social Services or his representative in the county in which the person resides or is present.

(l) The word 'caretaker' shall mean an individual who has the responsibility for the care of the disabled adult as a result of family relationship or who has assumed the responsibility for the care of the disabled adult voluntarily or by contract.

(m) The word 'indigent' shall mean indigent as defined in G.S. 7A-450.

(n) The words 'district court' shall mean the judge of that court.

"§ 108-94. *Duty to report; content of report; immunity.*—(a) Any person having reasonable cause to believe that a disabled adult is in need of protective services shall report such information to the director.

(b) The report may be made orally or in writing. The report shall include the name and address of the disabled adult; the name and address of the disabled adult's caretaker; the age of the disabled adult; the nature and extent of the disabled adult's injury or condition resulting from abuse or neglect; and other pertinent information.

(c) Anyone who makes a report pursuant to this statute, who testifies in any judicial proceeding arising from the report, or who participates in a required evaluation shall be immune from any civil or criminal liability on account of such report or testimony or participation, unless such person acted in bad faith or with a malicious purpose.

"§ 108-95. *Duty of director upon receiving report.*—(a) Any director receiving a report that a disabled adult is in need of protective services shall make a prompt and thorough evaluation to determine whether the disabled adult is in need of protective services and what services are needed. The evaluation shall include a visit to the person and consultation with others having knowledge of the facts of the particular case. After completing the evaluation the director shall make a written report of the case indicating

whether he believes protective services are needed and shall notify the individual making the report of his determination as to whether the disabled adult needs protective services.

(b) The staff and physicians of local health departments, mental health clinics, and other public or private agencies shall cooperate fully with the director in the performance of his duties. These duties include immediate accessible evaluations and in-home evaluations where the director deems this necessary.

(c) The director may contract with an agency or private physician for the purpose of providing immediate accessible medical evaluations in the location that the director deems most appropriate.

"§ 108-96. *Provision of protective services with the consent of the person; withdrawal of consent; caretaker refusal.*—(a) If the director determines that a disabled adult is in need of protective services, he shall immediately provide or arrange for the provision of protective services, provided that the disabled adult consents.

(b) When a caretaker of a disabled adult who consents to the receipt of protective services refuses to allow the provision of such services to the disabled adult, the director may petition the district court for an order enjoining the caretaker from interfering with the provision of protective services to the disabled adult. The petition must allege specific facts sufficient to show that the disabled adult is in need of protective services and consents to the receipt of protective services and that the caretaker refuses to allow the provision of such services. If the judge finds by clear, cogent, and convincing evidence that the disabled adult is in need of protective services and consents to the receipt of protective services and that the caretaker refuses to allow the provision of such services, he may issue an order enjoining the caretaker from interfering with the provision of protective services to the disabled adult.

(c) If a disabled adult does not consent to the receipt of protective services, or if he withdraws his consent, the services shall not be provided.

"§ 108-97. *Provision of protective services to disabled adults who lack the capacity to consent; hearing, findings, etc.*—(a) If the director reasonably determines that a disabled adult is being abused, neglected, or exploited and lacks capacity to consent to protective services, then the director may petition the district court for an order authorizing the provision of protective services. The petition must allege specific facts sufficient to show that the disabled adult is in need of protective services and lacks capacity to consent to them.

(b) The court shall set the case for hearing within 14 days after the filing of the petition. The disabled adult must receive at least five days' notice of the hearing. He has the right to be present and represented by counsel at the hearing. If the person, in the determination of the judge, lacks the capacity to waive the right to counsel, then the court shall appoint a guardian ad litem pursuant to G.S. 1A-1, Rule 17. If the person is indigent, the cost of representation shall be borne by the State.

(c) If, at the hearing, the judge finds by clear, cogent, and convincing evidence that the disabled adult is in need of protective services and lacks capacity to consent to protective services, he may issue an order authorizing the provision of protective services. This order may include the designation of an individual or organization to be responsible for the performing or obtaining of essential services on behalf of the disabled adult or otherwise consenting to protective

services in his behalf. Within 60 days from the appointment of such an individual or organization, the court will conduct a review to determine if a petition should be initiated in accordance with G.S. 33-7. No disabled adult may be committed to a mental health facility under this Article.

"§ 108-98. *Emergency intervention; findings by court; limitations; contents of petition; notice of petition; court authorized entry of premises; immunity of petitioner.*—(a) Upon petition by the director, a court may order the provision of emergency services to a disabled adult after finding that there is reasonable cause to believe that:

(1) a disabled adult lacks capacity to consent and that he is in need of protective service;

(2) an emergency exists; and

(3) no other person authorized by law or order to give consent for the person is available and willing to arrange for emergency services.

(b) The court shall order only such emergency services as are necessary to remove the conditions creating the emergency. In the event that such services will be needed for more than 14 days, the director shall petition the court in accordance with G.S. 108-97.

(c) The petition for emergency services shall set forth the name, address, and authority of the petitioner; the name, age and residence of the disabled adult; the nature of the emergency; the nature of the disability if determinable; the proposed emergency services; the petitioner's reasonable belief as to the existence of the conditions set forth in subsection (a) above; and facts showing petitioner's attempts to obtain the disabled adult's consent to the services.

(d) Notice of the filing of such petition, and other relevant information, including the factual basis of the belief that emergency services are needed and a description of the exact services to be rendered, shall be given to the person, to his spouse, or if none, to his adult children or next of kin, to his guardian, if any. Such notice shall be given at least 24 hours prior to the hearing of the petition for emergency intervention; provided, however, that the court may issue immediate emergency order ex parte upon finding as fact (1) that the conditions specified in G.S. 108-98(a) exist; (2) that there is likelihood that the disabled adult may suffer irreparable injury or death if such order be delayed; and (3) that reasonable attempts have been made to locate interested parties and secure from them such services or their consent to petitioner's provision of such service; and such order shall contain a show-cause notice to each person upon whom served directing such person to appear immediately or at any time within 20 days thereafter and show cause, if any exist, for the dissolution or modification of the said order, otherwise same to remain in effect; and copies of the said order together with such other appropriate notices as the court may direct shall be issued and served upon all of the interested parties designated in the first sentence of this subsection.

(e) Where it is necessary to enter a premises without the disabled adult's consent after obtaining a court order in compliance with subsection (a) above, the representative of the petitioner shall do so.

(f) No petitioner shall be held liable in any action brought by the disabled adult if the petitioner acted in good faith.

"§ 108-99. *Motion in the cause.*—Notwithstanding any finding by the court of lack of capacity of the disabled adult to consent, the disabled adult or the individual or organization designated to be responsible for the disabled adult

shall have the right to bring a motion in the cause for review of any order issued pursuant to this Article.

"§ 108-100. *Payment for essential services.*—At the time the director, in accordance with the provisions of G.S. 108-95, makes an evaluation of the case reported, then it shall be determined, according to regulations set by the Social Services Commission, whether the individual is financially capable of paying for the essential services. If he is, he shall make reimbursement for the costs of providing the needed essential services. If it is determined that he is not financially capable of paying for such essential services, they shall be provided at no cost to the recipient of the services.

"§ 108-101. *Reporting abuse.*—Upon finding evidence indicating that a person has abused, neglected, or exploited a disabled adult, the director shall notify the district attorney.

"§ 108-102. *Funding of protective services.*—Any funds appropriated by counties for home health care, boarding home, nursing home, emergency assistance, medical or psychiatric evaluations, and other protective services and for the development and improvement of a system of protective services, including additional staff, may be matched by State and federal funds. Such funds shall be utilized by the county department of social services for the benefit of disabled adults in need of protective services.

"§ 108-103. *Adoption of standards.*—The Department of Human Resources and the administrative office of the court shall adopt standards and other procedures and guidelines with forms to insure the effective implementation of the provisions of this Article no later than 90 days before the effective date of this Article."

Sec. 2. This act shall become effective January 1, 1976.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. B. 689 CHAPTER 798

AN ACT TO MAKE TECHNICAL AND CLARIFYING AMENDMENTS TO THE ELECTION LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-135(e) is rewritten to read:

"(e) Municipal primaries and elections. This Article shall apply to and control all elections held in and for cities, towns, incorporated villages and all special districts, whether conducted by the county board of elections or a duly appointed municipal board of elections."

Sec. 2. G.S. 163-128 is hereby amended by rewriting the first paragraph to read as follows:

"Each county shall be divided into a convenient number of precincts for the purpose of voting, and there shall be at least one precinct encompassed within the territory of each township; provided, however, that upon a resolution adopted by the county board of elections and approved by the Secretary-Director of the State Board of Elections voters from a given precinct within a township may be temporarily transferred, for the purpose of voting, to a precinct in an adjacent township. Any such transfers shall be for the period of time equal only to the term of office of the county board of elections making such transfer. When such a resolution has been adopted by the county board of elections to

assign voters from more than one township to the same precinct, then the county board of elections shall maintain separate registration and voting records, consistent with the procedure prescribed by the State Board of Elections, so as to properly identify the township in which such voters reside. There shall be at least one voting place in each precinct."

Sec. 3. G.S. 163-234(2) as it appears in the 1974 Cumulative Supplement to Volume 3D of the General Statutes is amended by adding at the end thereof the following:

"Provided, that the county board of elections is authorized to begin counting absentee ballots between the hours of 2:00 p.m. and 5:00 p.m. upon the adoption of a resolution at least two weeks prior to the election wherein the hour and place of counting absentee ballots shall be stated. A copy of the resolution shall be published once a week for two weeks prior to the election, in a newspaper having general circulation in the county. The count shall be continuous until completed and the members shall not separate or leave the counting place except for unavoidable necessity. The board shall not announce the result of the count before 7:30 p.m."

Sec. 4. G.S. 139-6 is amended by deleting from the fourth paragraph thereof the words "second Friday in September" and inserting in lieu thereof the words "first Friday in July".

Sec. 5. G.S. 163-278.6(18) is hereby rewritten to read as follows:

"(18) The term 'public office' means any office filled by election by the people on a statewide, county, municipal or district basis, and this Article shall be applicable to such elective offices whether the election therefor is partisan or non-partisan, provided candidates for municipal and county offices in those municipalities and counties having less than 50,000 population, according to the most recent decennial census figures, shall not be required to file reports required by this Article."

Sec. 6. G.S. 163-278.6(1) is hereby rewritten to read as follows:

"(1) The term 'board' means the State Board of Elections with respect to all candidates for State and multi-county district offices and the county board of elections with respect to all candidates for single-county district, county and municipal offices."

Sec. 7. G.S. 163-278.21 is hereby rewritten to read as follows:

"§ 163-278.21. *Promulgation of policy and administration through State Board of Elections.*—The State Board of Elections shall have responsibility, adequate staff, equipment and facilities, for promulgating all necessary regulations, and for the administration of this Article. The State Board of Elections shall empower the Executive Secretary-Director with the responsibility for the administrative operations required to administer this Article and may delegate or assign to him such other duties from time to time by regulations or orders of the State Board of Elections."

Sec. 8. G.S. 163-278.22 is amended by adding the following subsections thereto:

"(9) To prescribe and furnish forms of statements and other material to the county boards of elections for distribution to candidates and committees required to be filed with the county boards.

(10) To instruct the chairman and executive secretaries of each county board as to their respective duties and responsibilities relative to the administration of this Article.

(11) To require appropriate certification of delinquent or late filings from the county boards of elections and to execute the same responsibilities relative to such reports as provided in subsection G.S. 163-278.27.

(12) To assist county boards of elections in resolving questions arising from the administration of this Article.

(13) To require county boards of elections to hold such hearings, make such investigations, and make reports to the State Board as the State Board deems necessary in the administration of this Article."

Sec. 9. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. B. 944 CHAPTER 799

AN ACT TO REWRITE G.S. 20-109.1 RELATING TO SALVAGE VEHICLE TITLES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-109.1 is hereby rewritten to read as follows:

"§ 20-109.1. *Surrender of titles to salvage vehicles.*—(a) A vehicle shall be deemed to be a salvage vehicle:

(1) When an insurance company as a result of having paid a total loss claim acquires title to a vehicle, and obtains possession or control of a vehicle, for any cause other than theft; or

(2) When an insurance company has acquired title to and obtains possession of a vehicle in settlement of a theft loss claim, and upon recovery of the vehicle it is determined that the vehicle has been damaged to the extent that it would be considered a total loss under the provisions of comprehensive and collision insurance.

If the salvage vehicle was registered in North Carolina, or if the loss or damages occurred in North Carolina, or if the sale of the salvage vehicle takes place in North Carolina then the insurance company or their authorized agent shall within ten days after payment of a total loss claim forward to the Department of Motor Vehicles the certificate of title or the comparable ownership document issued by the jurisdiction wherein the vehicle was last registered. The certificate of title or comparable ownership document shall be properly assigned to the insurance company by the vehicle owner. Subsequent transfers of ownership shall be on forms provided by the department; and such forms shall be mailed by the department to the insurance company at the address furnished in the assignment of title from the registered owner, unless otherwise requested in writing by the insurance company or their authorized agent. The insurance company shall make an assignment of ownership on the form and deliver it to the purchaser upon sale of the salvage vehicle. The forms shall be considered as proof of ownership for the purpose of G.S. 20-61. In the event the salvage vehicle is rebuilt, an application for reissuance of the title shall be made on a form prescribed by the department, and the application shall be accompanied by such supporting information as the department may require.

(b) Any person acquiring or having possession of any salvage vehicle, purchased in those states that do not require the surrender of titles to salvage vehicles shall within ten days following delivery of the vehicle and title forward to the department the certificate of title or comparable ownership document

issued by the jurisdiction wherein the vehicle was last registered, with properly executed assignments and reassignments of such title or ownership document. Subsequent transfers of ownership and reissuance of the title shall be as provided for in subsection (a) hereof.

(c) Except when operated by or at the direction of the commissioner or his designee, no person shall operate a salvage vehicle prior to compliance with department requirements prerequisite to application for reissuance of a title. The rebuilt salvage vehicle may be operated following completion of the required examination and certification, provided the operation shall be in compliance with G.S. Chapter 20.

(d) A violation of any provision of this section shall constitute a misdemeanor punishable by a fine of not more than one hundred dollars ($100.00) or imprisonment for not more than two years, or both, in the discretion of the court."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. B. 1034 CHAPTER 800

AN ACT AUTHORIZING THE CREATION IN COUNTIES OF INDUSTRIAL AND POLLUTION CONTROL FACILITIES FINANCING AUTHORITIES AND THE ISSUANCE THEREBY OF REVENUE BONDS TO FINANCE INDUSTRIAL AND POLLUTION CONTROL PROJECTS FOR INDUSTRY AND POLLUTION CONTROL PROJECTS FOR PUBLIC UTILITIES.

The General Assembly of North Carolina enacts:

Section 1. The General Statutes of North Carolina are hereby amended by inserting therein a new Chapter to be designated Chapter 159A and to read as follows:

"CHAPTER 159A.

"Industrial and Pollution Control Facilities Financing Act.

"§ 159A-1. *Short title.*—This Chapter may be referred to as the 'Industrial and Pollution Control Facilities Financing Act'.

"§ 159A-2. *Legislative findings and purposes.*—(a) The General Assembly finds and determines that there exists in the State a critical condition of unemployment and a scarcity of employment opportunities; that the economic insecurity which results from such unemployment and scarcity of employment opportunities constitutes a serious menace to the safety, morals and general welfare of the entire State; that such unemployment and scarcity of employment opportunities have caused many workers and their families, including young adults upon whom future economic prosperity is dependent, to migrate elsewhere to find employment and establish homes; that such emigration has resulted in a reduced rate of growth in the tax base of the counties and other local governmental units of the State which impairs the financial ability of such counties and other local governmental units to support education and other local governmental services; that such unemployment results in obligations to grant public assistance and to pay unemployment compensation; that the aforesaid conditions can best be remedied by the attraction, stimulation, expansion and rehabilitation and revitalization of

industrial and manufacturing facilities for industry in the State; and that there is a need to stimulate a larger flow of private investment funds into industrial building programs into the State.

(b) The General Assembly further finds and determines that the development and expansion of industry within the State, and the generation of electric power and the supply of other services by public utilities, which are essential to the economic growth of the State and to the full employment and prosperity of its people, are accompanied by the increased production and discharge of gaseous, liquid, and solid pollution and wastes which threaten and endanger the health, welfare and safety of the inhabitants of the State by polluting the air, land and waters of the State; that in order to reduce, control, and prevent such environmental pollution, it is imperative that action be taken at various levels of government to require the provision of devices, equipment and facilities for the collection, reduction, treatment, and disposal of such pollution and wastes; that the assistance provided in this Chapter, especially with respect to financing, is therefore in the public interest and serves a public purpose of the State in promoting the health, welfare and safety of the inhabitants of the State not only physically by collecting, reducing, treating and preventing environmental pollution but also economically by securing and retaining private industry thereby maintaining a higher level of employment and economic activity and stability.

(c) It is therefore declared to be the policy of the State to promote the right to gainful employment opportunity, private industry, the prevention and control of the pollution of the air, land and waters of the State, and the safety, morals and health of the people of the State, and thereby promote general welfare of the people of the State, by authorizing counties to create county authorities which shall be political subdivisions and bodies corporate and politic of the State. These bodies are to be formed (1) to aid in the financing of industrial and manufacturing facilities for the purpose of alleviating unemployment or raising below average manufacturing wages by financing industrial and manufacturing facilities which provide job opportunities or pay better wages than those prevalent in the area and (2) to aid in financing pollution control facilities for industry in connection with manufacturing and industrial facilities and for public utilities; provided, however, that it is the policy of the State to finance only those facilities where there is a direct or indirect favorable impact on employment or an improvement in the degree of prevention or control of pollution commensurate with the size and cost of the facilities.

"§ 159A-3. *Definitions.*—The following terms, whenever used or referred to in this Chapter, shall have the following respective meanings, unless a different meaning clearly appears from the context:

(1) 'Agency' shall include any agency, bureau, commission, department or instrumentality.

(2) 'Air pollution control facility' shall mean any structure, equipment or other facility for, including any increment in the cost of any structure, equipment or facility attributable to, the purpose of treating, neutralizing or reducing gaseous industrial waste and other air pollutants, including recovery, treatment, neutralizing or stabilizing plants and equipment and their appurtenances, which shall have been certified by the agency having jurisdiction to be in furtherance of the purpose of abating or controlling atmospheric pollutants or contaminants.

(3) 'Bonds' shall mean revenue bonds of an authority issued under the provisions of this Chapter.

(4) 'Cost' as applied to any project shall embrace all capital costs thereof, including the cost of construction, the cost of acquisition of all property, including rights in land and other property, both real and personal and improved and unimproved, the cost of demolishing, removing or relocating any buildings or structures on lands so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved or relocated, the cost of all machinery and equipment, installation, start-up expenses, financing charges, interest prior to, during and for a period not exceeding one year after completion of construction, the cost of engineering and architectural surveys, plans and specifications, the cost of consultants' and legal services, other expenses necessary or incident to determining the feasibility or practicability of such project, administrative and other expenses necessary or incident to the acquisition or construction of such project and the financing of the acquisition and construction thereof.

(5) 'Governing body' shall mean the board, commission, council or other body in which the general legislative powers of any county or other political subdivision are vested.

(6) 'Lease agreement' shall mean a written instrument establishing the rights and responsibilities of the authority and the operator with respect to a project financed by the issue of bonds. A lease agreement may be in the nature of a lease, a lease and leaseback, a sale and leaseback, or a lease purchase and may involve property in addition to the property financed by the bonds.

(7) 'Obligor' shall mean collectively the operator and any others who shall be obligated under a lease agreement or guaranty agreement or other contract or agreement to make payments to, or for the benefit of, the holders of bonds of the authority. Any requirement of an obligor may be satisfied by any one or more persons who are defined collectively by this Chapter as the obligor.

(8) 'Operator' shall mean the person entitled to the use or occupancy of a project.

(9) 'Pollution' and 'pollutants' shall mean any noxious or deleterious substances in any air or waters of or adjacent to the State of North Carolina or affecting the physical, chemical or biological properties of any air or waters of or adjacent to the State of North Carolina in a manner and to an extent which renders or is likely to render such air or waters harmful or inimical to the public health, safety or welfare, or to animal, bird or aquatic life, or to the use of such air or waters for domestic, industrial or agricultural purposes or recreation.

(10) 'Political subdivision' shall mean any county, city, town, other unit of local government or any other governmental corporation, agency, authority or instrumentality of the State now or hereafter existing.

(11) 'Project' shall mean any land, equipment or any one or more buildings or other structures, whether or not on the same site or sites, and any rehabilitation, improvement, renovation or enlargement of, or any addition to, any building or structure for use as or in connection with (a) any industrial project for industry which project may be any industrial or manufacturing factory, mill, assembly plant or fabricating plant, or (b) any pollution control project for industry or for public utilities which project may be any air pollution control facility, water pollution control facility, or solid waste disposal facility in connection with any factory, mill or plant described in clause (a) of this paragraph or in connection

with a public utility plant, or (c) any combination of projects mentioned in clauses (a) and (b) of this paragraph. Any project may include all appurtenances and incidental facilities such as land, headquarters or office facilities, warehouses, distribution centers, access roads, sidewalks, utilities, railway sidings, trucking and similar facilities, parking facilities, landing strips and other facilities for aircraft, waterways, docks, wharves and other improvements necessary or convenient for the construction, maintenance and operation of any building or structure, or addition thereto.

(12) 'Revenues' shall mean, with respect to any project, the rents, fees, charges, payments, proceeds and other income or profit derived therefrom or from the lease agreement or security document in connection therewith.

(13) 'Security document' shall mean a written instrument or instruments establishing the rights and responsibilities of the authority and the holders of bonds issued to finance a project, and may provide for, or be in the form of an agreement with, a trustee for the benefit of such bondholders. A security document may contain an assignment, pledge, mortgage or other encumbrance of all or part of the authority's interest in, or right to receive revenues with respect to, a project and any other property provided by the operator or other obligor under a lease agreement and may bear any appropriate title. A lease agreement and a security document may be combined as one instrument.

(14) 'Solid waste' shall mean solid waste materials resulting from any industrial or manufacturing activities or from any pollution control facility.

(15) 'Solid waste disposal facility' shall mean a facility for the purpose of treating, burning, compacting, composting, storing or disposing of solid waste.

(16) 'Water pollution control facility' shall mean any structure, equipment or other facility for, including any increment in the cost of any structure, equipment or facility attributable to, the purpose of treating, neutralizing or reducing liquid industrial waste and other water pollution, including collecting, treating, neutralizing, stabilizing, cooling, segregating, holding, recycling, or disposing of liquid industrial waste and other water pollution, including necessary collector, interceptor, and outfall lines and pumping stations, which shall have been certified by the agency exercising jurisdiction to be in furtherance of the purpose of abating or controlling water pollution.

"§ 159A-4. Creation of authorities.—(a) The governing body of any county is hereby authorized to create by resolution a political subdivision and body corporate and politic of the State known as 'The _____ (the blank space to be filled in with the name of the county) County Industrial Facilities and Pollution Control Financing Authority', which shall consist of a board of seven commissioners, to be appointed by the governing body of such county in the resolution creating such authority, or by subsequent resolution. At least 30 days prior to the adoption of such resolution, the governing body of such county shall file with the Department of Natural and Economic Resources and the Local Government Commission of the State notice of its intention to adopt a resolution creating an authority. At the time of the appointment of the first board of commissioners the governing body of the county shall appoint two commissioners for initial terms of two years each, two commissioners for initial terms of four years each and three commissioners for initial terms of six years each and thereafter the terms of all commissioners shall be six years, except appointments to fill vacancies which shall be for the unexpired terms. Each

appointed commissioner before entering upon his duties shall take and subscribe to an oath before some person authorized by law to administer oaths to execute the duties of his office faithfully and impartially, and a record of each such oath shall be filed with the governing body of the county and entered in its minutes. All authority commissioners will serve at the pleasure of the governing body of the county. If at the end of any term of office of any commissioner a successor thereto shall not have been appointed, then the commissioner whose term of office shall have expired shall continue to hold office until his successor shall be so appointed and qualified.

(b) Each commissioner of an authority shall be a qualified elector and resident of the county for which the authority is created, and no commissioner shall be an officer or employee of the State or any political subdivision or any agency of either of them. Any commissioner of an authority may be removed, with or without cause, by the governing body of the county.

(c) The board of commissioners of the authority shall annually elect from its membership a chairman and a vice-chairman and another person or persons, who may but need not be commissioners, as treasurer, secretary and, if desired, assistant secretary. The position of secretary and treasurer or assistant secretary and treasurer may be held by the same person. The secretary of the authority shall keep a record of the proceedings of the authority and shall be the custodian of all books, documents and papers filed with the authority, the minute book or journal of the authority and its official seal. Either the secretary or the assistant secretary of the authority may cause copies to be made of all minutes and other records and documents of the authority and may give certificates under the official seal of the authority to the effect that such copies are true copies, and all persons dealing with the authority may rely upon such certificates.

(d) A majority of the commissioners of an authority then in office shall constitute a quorum. The affirmative vote of a majority of the commissioners of an authority then in office shall be necessary for any action taken by the authority. A vacancy in the board of commissioners of the authority shall not impair the right of a quorum to exercise all the rights and perform all the duties of the authority. Any action taken by the authority under the provisions of this Chapter may be authorized by resolution at any regular or special meeting, and each resolution shall take effect immediately and need not be published or posted. No bonds shall be issued under the provisions of this Chapter unless the issuance thereof shall have been approved by the governing body of the county.

(e) No commissioner of an authority shall receive any compensation for the performance of his duties under this Chapter; provided, however, that each commissioner shall be reimbursed for his necessary expenses incurred while engaged in the performance of duties but only from moneys provided by obligors.

(f) Within 30 days of the date of creation of the authority, the authority shall advise the Department of Natural and Economic Resources and the Local Government Commission that an authority has been formed. The authority shall also furnish such department and such commission with (1) a list of its commissioners and its officers and (2) a description of any projects that are under consideration by the authority. The authority shall, from time to time, notify the Department of Natural and Economic Resources and the Local Government Commission of changes in commissioners and officers and of new projects under consideration by the authority.

"§ 159A-5. *General powers.*—Each authority shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this Chapter, including, but without limiting the generality of the foregoing, the powers:

(1) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, regulations and policies in connection with the performance of its functions and duties;

(2) To adopt an official seal and alter the same at pleasure;

(3) To maintain an office at such place or places within the boundaries of the county for which it was created as it may determine;

(4) To sue and be sued in its own name, plead and be impleaded;

(5) To receive, administer and comply with the conditions and requirements respecting any gift, grant or donation of any property or money;

(6) To make and execute lease agreements, security documents and other contracts and instruments necessary or convenient in the exercise of the powers and functions of the authority under this Chapter;

(7) To acquire by purchase, lease, gift or otherwise, but not by eminent domain, or to obtain options for the acquisition of, any property, real or personal, improved or unimproved, and interests in land less than the fee thereof, for the construction, operation or maintenance of any project;

(8) To sell, lease, exchange, transfer or otherwise dispose of, or to grant options for any such purposes with respect to, any real or personal property or interest therein;

(9) To pledge or assign revenues of the authority;

(10) To construct, acquire, own, repair, maintain, extend, improve, rehabilitate, renovate, furnish and equip one or more projects and to pay all or any part of the costs thereof from the proceeds of bonds of the authority or from any contribution, gift or donation or other funds made available to the authority for such purpose;

(11) To fix, charge and collect revenues with respect to any project;

(12) To employ consulting engineers, architects, attorneys, real estate counselors, appraisers and such other consultants and employees as may be required in the judgment of the authority and to fix and pay their compensation from funds available to the authority therefor; and

(13) To do all acts and things necessary, convenient or desirable to carry out the purposes, and to exercise the powers herein granted.

"§ 159A-6. *Bonds.*—(a) Each authority is hereby authorized to provide for the issuance, at one time or from time to time, of bonds of the authority for the purpose of paying all or any part of the cost of any project. The principal of, the interest on and any premium payable upon the redemption of such bonds shall be payable solely from the funds herein authorized for such payment. The bonds of each issue shall bear interest as may be determined by the Local Government Commission of North Carolina with the approval of the authority and the obligor irrespective of the limitations of G.S. 24-1.1, as amended, and successor provisions. The bonds of each issue shall be dated, shall mature at such time or times not exceeding 30 years from the date of their issuance, and may be made redeemable before maturity at such price or prices and under such terms and conditions, as may be fixed by the authority prior to the issuance of the bonds. The authority shall determine the form and the manner of execution of the bonds, including any interest coupons to be attached thereto, and shall fix the

denomination or denominations of the bonds and the place or places of payment of principal and interest. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. The authority may also provide for the authentication of the bonds by a trustee or fiscal agent. The bonds may be issued in coupon or in fully registered form, or both, as the authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest, and for the interchange of registered and coupon bonds.

The proceeds of the bonds of each issue shall be used solely for the payment of the cost of the project or projects, or a portion thereof, for which such bonds shall have been issued, and shall be disbursed in such manner and under such restrictions, if any, as the authority may provide in the lease agreement and the security document. If the proceeds of the bonds of any issue, by reason of increased construction costs or error in estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficiency. The authority may issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery. The authority may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost.

Bonds may be issued under the provisions of this Chapter without obtaining, except as otherwise expressly provided in this Chapter, the consent of the State or of any political subdivision or of any agency of either thereof, and without any other proceedings or the happening of any conditions or things other than those proceedings, conditions or things which are specifically required by this Chapter and the provisions of the lease agreement and security document authorizing the issuance of such bonds and securing the same.

"§ 159A-7. *Approval of project.*—No bonds may be issued by an authority unless the project for which the issuance thereof is proposed is first approved by the Secretary of the Department of Natural and Economic Resources. The authority shall file an application for approval of its proposed project with the Secretary of the Department of Natural and Economic Resources, and shall notify the Local Government Commission of such filing.

The secretary shall not approve any proposed project unless he shall make all of the following, applicable findings:

(1) In the case of a proposed industrial project,

(a) that the operator of the proposed project pays, or has agreed to pay thereafter, an average manufacturing wage which is above the average manufacturing wage paid in the county, and

(b) that the proposed project will not have a materially adverse effect on the environment;

(2) In the case of a proposed pollution control project, that such project will have a materially favorable impact on the environment or will prevent or diminish materially the impact of pollution which would otherwise occur; and

(3) In any case (whether the proposed project is an industrial or a pollution control project), except a pollution control project for a public utility,

(a) that the jobs to be generated or saved, directly or indirectly, by the proposed project will be large enough in number to have a measurable impact on the area immediately surrounding the proposed project and will be commensurate with the size and cost of the proposed project,

(b) that the proposed operator of the proposed project has demonstrated or can demonstrate the capability to operate such project, and

(c) that the financing of such project by the authority will not cause or result in the abandonment of an existing industrial or manufacturing facility of the proposed operator or an affiliate elsewhere within the State unless the facility is to be abandoned because of obsolescence, lack of available labor in the area, or site limitations.

In any case where the secretary shall make all of the required findings respecting a proposed industrial project except that prescribed in subparagraph (1)(a) of this section, the secretary may, in his discretion, approve the proposed project if he shall have received (i) a resolution of the governing body of the county requesting that the proposed project be approved notwithstanding that the operator will not pay an average manufacturing wage above the average manufacturing wage in the county and (ii) a letter from an appropriate State official, selected by the secretary, to the effect that unemployment in the county is especially severe.

To facilitate his review of each proposed project, the secretary may require the authority to obtain and submit such data and information about such project as the secretary may prescribe. In addition, the secretary may, in his discretion, request the authority to hold a public hearing on the proposed project for the purpose of providing the secretary directly with the views of the community to be affected. The secretary may also prescribe such forms and such rules and regulations as he shall deem reasonably necessary to implement the provisions of this section.

If the secretary approves the proposed project, he shall prepare a Certificate of Approval evidencing such approval and setting forth his findings and shall cause said Certificate of Approval to be published in a newspaper of general circulation within the county. Any such approval shall be reviewable as provided in Article 4 of Chapter 150A of the General Statutes of North Carolina only by an action filed, within 30 days after notice of such findings and approval shall have been so published, in the Superior Court of Wake County. Such superior court is hereby vested with jurisdiction to hear such action, but if no such action is filed within the 30 days herein prescribed, the validity of such approval shall be conclusively presumed, and no court shall have authority to inquire into such approval. Copies of the Certificate of Approval of the proposed project will be given to the authority, the governing body of the county and the secretary of the local government commission.

Such Certificate of Approval shall become effective immediately following the expiration of such 30-day period or the expiration of any appeal period after a final determination by any court of any action timely filed pursuant to this section. Such certificate shall expire one year after its date unless extended by the secretary who shall not extend such certificate unless he shall again approve the proposed project as provided in this section.

"§ 159A-8. *Approval of bonds.*—No bonds may be issued by an authority unless the issuance thereof is first approved by the Local Government Commission.

The authority shall file an application for approval of its proposed bond issue with the secretary of the Local Government Commission, and shall notify the Secretary of the Department of Natural and Economic Resources of such filing.

In determining whether a proposed bond issue should be approved, the Local Government Commission may consider, without limitation, the following:

(1) Whether the proposed operator and obligor have demonstrated or can demonstrate the financial responsibility and capability to fulfill their obligations with respect to the lease agreement. In making such determination, the commission may consider the operator's experience and the obligor's ratio of current assets to current liabilities, net worth, earnings trends and coverage of fixed charges, the nature of the industry or business involved and its stability and any additional security such as insurance, guaranties or property to be pledged to secure such bonds.

(2) Whether the political subdivisions in or near which the proposed project is to be located have the ability to cope satisfactorily with the impact of such project and to provide, or cause to be provided, the public facilities and services, including utilities, that will be necessary for such project and on account of any increase in population which are expected to result therefrom.

(3) Whether the proposed date and manner of sale will have an adverse effect upon any scheduled or anticipated sale of obligations by the State or any political subdivision or any agency of either of them.

To facilitate the review of the proposed bond issue by the commission, the secretary may require the authority to obtain and submit such financial data and information about the proposed bond issue and the security therefor, including the proposed prospectus or offering circular, the proposed lease agreement and security document and annual and other financial reports and statements of the obligor, as the secretary may prescribe. The secretary may also prescribe such forms and such rules and regulations as he shall deem reasonably necessary to implement the provisions of this section.

"§ 159A-9. *Sale of bonds.*—Bonds may be sold in such manner, either at public or private sale, and for such price as the Local Government Commission shall determine to be for the best interests of the authority and effectuate best the purposes of this Chapter irrespective of the interest limitations set forth in G.S. 24-1.1, as amended, and successor provisions, provided that such sale shall be approved by the authority and the obligor.

"§ 159A-10. *Location of projects.*—Any project or projects of an authority shall be located within the boundaries of the county for which the authority was created.

"§ 159A-11. *Lease agreements.*—Every lease agreement shall provide that:

(1) The authority shall not operate the project.

(2) The amounts payable under the lease agreement shall be sufficient to pay all of the principal of and interest and redemption premium, if any, on the bonds that shall be issued by the authority to pay the cost of the project as the same shall respectively become due;

(3) The obligor shall pay all costs incurred by the authority in connection with the financing and administration of the project, except as may be paid out of the proceeds of bonds or otherwise, including, but without limitation,

insurance costs, the cost of administering the lease agreement and the security document and the fees and expenses of the fiscal agent or trustee, paying agents, attorneys, consultants and others;

(4) The obligor shall pay all the costs and expenses of operation, maintenance and upkeep of the project; and

(5) The obligor's obligation to provide for the payment of the bonds in full shall not be subject to cancellation, termination or abatement until such payment of the bonds or provision therefor shall be made.

The lease agreement shall either provide that the obligor shall have an option to purchase, or require that the obligor purchase, the project upon the expiration or termination of the lease agreement subject to the condition that payment in full of the principal of, and the interest and any redemption premium on, the bonds, or provision therefor, shall have been made.

The lease agreement may provide the authority with rights and remedies in the event of a default by the obligor thereunder including, without limitation, any one or more of the following:

(I) Acceleration of all amounts payable under the lease agreement;

(II) Re-entry and repossession of the project;

(III) Termination of the lease agreement;

(IV) Leasing the project to others; and

(V) Taking whatever actions at law or in equity may appear necessary or desirable to collect the amounts payable under, and to enforce covenants made in, the lease agreement.

The authority may assign all or any of its rights and remedies under the lease agreement to the trustee or bondholders under the security document.

Any such lease agreement may contain such additional provisions as in the determination of the authority are necessary or convenient to effectuate the purposes of this Chapter.

"§ 159A-12. *Security documents.*—Bonds issued under the provisions of this Chapter may be secured by a security document which may be a trust instrument between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the State. Such security document may pledge and assign the revenues provided for the security of the bonds, including proceeds from the sale of any project, or part thereof, insurance proceeds and condemnation awards, and may convey or mortgage the project and other property to secure a bond issue.

The revenues and other funds derived from the project, except such part thereof as may be necessary to provide reserves therefor, if any, shall be set aside at such regular intervals as may be provided in such security document in a sinking fund which may be thereby pledged to, and charged with, the payment of the principal of and the interest on such bonds as the same shall become due and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made. The revenues so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority, irrespective of whether such parties have notice thereof. The use and disposition of money to the credit of such sinking fund shall be subject to the provisions of the security document. Such

security document may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including, without limitation, any one or more of the following:

(1) Acceleration of all amounts payable under the security document;

(2) Appointment of a receiver to manage the project and any other property mortgaged or assigned as security for the bonds;

(3) Foreclosure and sale of the project and any other property mortgaged or assigned as security for the bonds; and

(4) Rights to bring and maintain such other actions at law or in equity as may appear necessary or desirable to collect the amounts payable under, or to enforce the covenants made in, the security document.

It shall be lawful for any bank or trust company incorporated under the laws of this State which may act as depositary of the proceeds of bonds, revenues or other funds provided under this Chapter to furnish such indemnifying bonds or to pledge such securities as may be required by the authority. All expenses incurred in carrying out the provisions of such security document may be treated as a part of the cost of the project in connection with which bonds are issued or as an expense of administration of such project.

"§ 159A-13. *Trust funds.*—Notwithstanding any other provisions of law to the contrary, all money received pursuant to the authority of this Chapter, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this Chapter. The security document may provide that any of such moneys may be temporarily invested and reinvested pending the disbursement thereof in such securities and other investments as shall be provided in such security document, and shall provide that any officer with whom, or any bank or trust company with which, such moneys shall be deposited shall act as trustee of such moneys and shall hold and apply the same for the purpose hereof, subject to such regulations as this Chapter and such security document may provide.

"§ 159A-14. *Tax exemption.*—The authority shall not be required to pay any taxes on any project or any other property owned by the authority under the provisions of this Chapter or upon the income therefrom, and the bonds issued under the provisions of this Chapter and the income therefrom shall at all times be free from taxation by the State or political subdivision or any agency of either thereof.

Every capital project financed through this Chapter shall be subject to taxation paid by the operator of the project. Taxes shall be assessed and paid as though no public body had any interest therein.

"§ 159A-15. *Construction contracts.*—Contracts for the construction of the project may be awarded by the authority in such manner as in its judgment will best promote free and open competition, including advertisement for competitive bids in a newspaper of general circulation in the county in which the project is to be located; provided, however, that if the authority shall determine that the purposes of the Chapter will thereby be more effectively served, the authority in its discretion may award contracts for the construction of any project, or any part thereof, upon a negotiated basis as determined by the authority. The authority shall prescribe such bid security requirements and other procedures in connection with the award of such contracts as in its judgment shall protect the public interest.

The authority may in the lease agreement engage the services of the prospective operator of any project in the construction of such project and may provide in such contract that such operator shall act as an independent contractor for and agent of the authority for the performance of the functions described therein, subject to such conditions and requirements, consistent with the provisions of this Chapter as shall be prescribed in such document. Contracts for the construction of the project may be awarded on a competitive or negotiated basis as may be provided in the lease document with the approval of the authority. Any such contract may provide that the authority may, out of proceeds of bonds, make advances to or reimburse the operator for its costs incurred in the performance of such functions.

"§ 159A-16. *Conflict of interest.*—No officer, member, agent or employee of the authority or the State or any political subdivision or any agency of either the State or any political subdivision shall be interested either directly or indirectly in any contract with an authority; provided, however, that this section shall not apply to the ownership of less than one per centum of the stock of any operator or obligor.

"§ 159A-17. *Credit of State not pledged.*—Bonds issued under the provisions of this Chapter shall not be deemed to constitute a debt of the State or any political subdivision or any agency thereof or a pledge of the faith and credit of the State or any political subdivision or any such agency, but shall be payable solely from the revenues and other funds provided therefor. Each bond issued under this Chapter shall contain on the face thereof a statement to the effect that the authority shall not be obligated to pay the same or the interest thereon except from the revenues and other funds pledged therefor and that neither the faith and credit nor the taxing power of the State or any political subdivision or any agency thereof is pledged to the payment of the principal of or the interest on such bonds.

"§ 159A-18. *Bonds eligible for investment.*—Bonds issued by an authority under the provisions of this Chapter are hereby made securities in which all public officers and agencies of the State and all political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them.

"§ 159A-19. *Revenue refunding bonds.*—(a) Each authority is hereby authorized to provide by resolution for the issuance of refunding bonds of the authority for the purpose of refunding any bonds then outstanding which shall have been issued under the provisions of this Chapter, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and, if deemed advisable by the authority, for either or both of the following additional purposes:

(1) Constructing improvements, additions, extensions or enlargements of the project or projects in connection with which the bonds to be refunded shall have been issued, and

(2) Paying all or any part of the cost of any additional project or projects.

The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties and obligations of the authority in respect to the same shall be governed by the provisions of this

Chapter which relate to the issuance of bonds, insofar as such provisions may be appropriate therefor.

The approvals required by Section 159A-7 and Section 159A-8 shall be obtained prior to the issuance of any refunding bonds; provided, however, that in the case where the refunding bonds of all or a portion of an issue are to be issued solely for the purpose of refunding outstanding bonds issued under this Chapter, the approval required by Section 159A-7 shall not be required as to the project financed with the bonds to be refunded.

(b) Refunding bonds issued under this section may be sold or exchanged for outstanding bonds issued under this Chapter and, if sold, the proceeds thereof may be applied, in addition to any other authorized purposes, to the purchase, redemption or payment of such outstanding bonds. Refunding bonds may be issued, in the determination of the authority, at any time not more than five years prior to the date of maturity or maturities or the date selected for the redemption of the bonds being refunded thereby. Pending the application of the proceeds of such refunding bonds, with any other available funds, to the payment of the principal of and accrued interest and any redemption premium on the bonds being refunded, and, if so provided or permitted in the security document securing the same, to the payment of any interest on such refunding bonds and any expenses in connection with such refunding, such proceeds may be invested in direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by, the United States of America which shall mature or which shall be subject to redemption by the holder thereof, at the option of such holder, not later than the respective dates when the proceeds, together with the interest accruing thereon, will be required for the purposes intended.

"§ 159A-20. *No power of eminent domain.*—No authority shall have any right or power to acquire any property through the exercise of eminent domain or any proceedings in the nature of eminent domain.

"§ 159A-21. *Dissolution of authorities.*—Whenever the board of commissioners of an authority and the governing body of the county for which such authority was created shall by joint resolution determine that the purposes for which the authority was formed have been substantially fulfilled and that all bonds theretofore issued and all other obligations theretofore incurred by the authority have been fully paid or satisfied, such board of commissioners and governing body may declare the authority to be dissolved. On the effective date of such joint resolution, the title to all funds and other property owned by the authority at the time of such dissolution shall vest in the county or in such other political subdivisions as the county shall direct, and possession of such funds and other property shall forthwith be delivered to the county or to such other political subdivisions in accordance with the direction of the county.

"§ 159A-22. *Annual reports.*—Each authority shall, promptly following the close of each calendar year, submit an annual report of its activities for the preceding year to the governing body of the county for which the authority was created. Each such report shall set forth a complete operating and financial statement covering the operations of the authority during such year. The authority shall cause an audit of its books and accounts to be made at least once in each year by certified public accountants and the cost thereof may be treated as a part of the cost of construction of a project, to the extent such audit covers

the construction of the project, or otherwise as part of the expense of administration of the project covered by such audit.

"§ 159A-23. *Officers not liable.*—No commissioner of any authority shall be subject to any personal liability or accountability by reason of his execution of any bonds or the issuance thereof.

"§ 159A-24. *Additional method.*—The foregoing sections of this Chapter shall be deemed to provide an additional and alternative method for the doing of the things authorized thereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing; provided, however, that the issuance of bonds or refunding bonds under the provisions of this Chapter need not comply with the requirements of any other law applicable to the issuance of bonds."

Sec. 2. Liberal construction. This Chapter, being necessary for the prosperity and welfare of the State and its inhabitants, shall be liberally construed to effect the purposes hereof.

Sec. 3. Inconsistent laws inapplicable. Insofar as the provisions of this Chapter are inconsistent with the provisions of any general, special or local laws, or parts thereof, the provisions of this Chapter shall be controlling.

Sec. 4. Severability. If any clause or other portion of this Chapter shall be held invalid, that decision shall not affect the validity of the remaining portions of this Chapter. It is hereby declared that all such remaining portions are severable and that the General Assembly would have enacted such remaining portions if the portions that may be so held to be invalid had not been included in this Chapter.

Sec. 5. This Chapter shall become effective upon the certification by the State Board of Elections that an amendment to the North Carolina Constitution authorizing the enactment of general laws dealing with the transactions of the type contemplated by this Chapter has been approved by the people of the State.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. B. 1271 CHAPTER 801

AN ACT TO REPEAL CHAPTER 244 OF THE PRIVATE LAWS OF NORTH CAROLINA OF 1935 PROHIBITING THE MANUFACTURE OR SALE OF INTOXICATING BEVERAGES WITHIN ONE MILE OF THE VILLAGE OF BAHAMA IN DURHAM COUNTY.

The General Assembly of North Carolina enacts.

Section 1. Chapter 244 of the Private Laws of North Carolina of 1935 is hereby repealed.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. B. 1272 **CHAPTER 802**

AN ACT TO AMEND CHAPTER 776 OF THE 1947 SESSION LAWS TO INCREASE THE NUMBER OF COMMISSIONERS OF THE TOWN OF MORRISVILLE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 776 of the 1947 Session Laws of North Carolina is hereby amended by rewriting Section 3 to read as follows:

"Sec. 3. That the officers of said corporation shall consist of a mayor and five commissioners, to be elected in accordance with the general laws pertaining to municipal elections."

Sec. 2. Chapter 776 of the Session Laws of 1947 is further amended by rewriting Section 9 to read as follows:

"Sec. 9. The mayor and commissioners shall be elected biennially under the procedures provided by general law for the conduct of municipal elections."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. B. 1273 **CHAPTER 803**

AN ACT TO GIVE MAGISTRATES OF EDGECOMBE AND NASH COUNTIES CONCURRENT AUTHORITY TO RECEIVE AND ACT UPON INVOLUNTARY COMMITMENT PETITIONS FILED IN EITHER COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Any magistrate of Edgecombe County has the same authority to receive and act upon petitions filed under Article 5A (Involuntary Commitment) of General Statutes Chapter 122, as any magistrate of Nash County. Any magistrate of Nash County has the same authority to receive and act upon petitions filed under Article 5A (Involuntary Commitment) of General Statutes Chapter 122, as any magistrate of Edgecombe County.

Sec. 2. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

S. B. 319 **CHAPTER 804**

AN ACT TO PROHIBIT FURNISHING INTOXICATING BEVERAGES TO INMATES OF MENTAL OR PENAL INSTITUTIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-258.1, as it appears in the 1974 Cumulative Supplement to Volume 1B of the General Statutes of North Carolina, is hereby amended by adding a new subsection (b) to read as follows:

"(b) Any person who shall knowingly give or sell any intoxicating liquor to any inmate of any State mental or penal institution, or to any inmate of any local confinement facility, except for medical purposes as prescribed by a duly licensed physician; or any person who shall combine, confederate, conspire, procure, or procure another or others to give or sell any intoxicating liquor to any inmate of any such State institution or local confinement facility, except for

medical purposes as prescribed by a duly licensed physician; or any person who shall bring into the buildings, grounds or other facilities of such institution any intoxicating liquor, except for medical purposes as prescribed by a duly licensed physician, shall be guilty of a misdemeanor, and on conviction thereof shall be fined or imprisoned, in the discretion of the court. If such person is an officer or employee of any institution of the State, such person shall be dismissed from office."

Sec. 2. The present G.S. 14-258.1 is redesignated G.S. 14-258.1 subsection (a), and is amended by: Inserting after the words "penal institution," and before the words "or if any" on line 4, and after the words "penal institution," and before the words "any deadly weapon" on line 7, the following: "or local confinement facility," and by inserting after the words "of the State," and before the words "he shall be" on line 14, the following: "or of any local confinement facility,".

Sec. 3. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

S. B. 558 CHAPTER 805

AN ACT TO AMEND THE PROVISIONS OF CHAPTER 25A RELATING TO HOME-SOLICITATION SALES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 25A-39(a) is hereby amended by adding at the end thereof the following:

"or which complies with the requirements of the Federal Trade Commission Trade Regulation Rule Concerning a Cooling-off Period for Door-to-Door Sales."

Sec. 2. G.S. 25A-40 is hereby amended to read as follows:

"§ 25A-40. *Form of agreement or offer; statement of buyer's rights.*—(a) In a home-solicitation sale the seller must present to the buyer and obtain his signature to a fully completed written agreement or offer to purchase which is in the same language as that principally used in the oral sales presentation and which designates as the date of the transaction the date on which the buyer actually signs and which contains the name and address of the seller, and which contains in immediate proximity to the space reserved for the signature of the buyer in bold face type of a minimum size of 10 points, a statement in substantially the following form:

'You, the buyer, may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right.'

(b) The seller must, in addition to furnishing the buyer with a copy of the contract or offer to purchase, furnish to the buyer at the time he signs the home-solicitation sale contract or otherwise agrees to buy consumer goods or services from the seller, a completed form in duplicate, captioned 'Notice of Cancellation', which shall be attached to the contract and easily detachable, and which shall contain in 10-point bold face type the following information and statements in the same language as that used in the contract:

'Notice of Cancellation

(enter date of transaction)

(Date)

You may cancel this transaction, without any penalty or obligation, within three business days from the above date.

If you cancel, any property traded in, and payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within 10 business days following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be cancelled.

If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale; or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller's expense and risk.

If you do make the goods available to the seller and the seller does not pick them up within 20 days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation. If you fail to make the goods available to the seller, or if you agree to return the goods to the seller and fail to do so, then you remain liable for performance of all obligations under the contract.

'To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice or any other written notice, or send a telegram to (name of seller), at (address of seller's place of business), not later than midnight of (date).

I hereby cancel this transaction.

(date)

(Buyer's Signature)'

Sec. 3. G.S. 25A-41 is amended by inserting the word "business" between "10" and "days" in the first sentence of G.S. 25A-41(a) and by deleting in its entirety subsection (c) and by redesignating subsection (d) as subsection (c).

Sec. 4. G.S. 25A-42 is hereby amended to read as follows:

"§ 25A-42. *Duties as to care and return of goods; no compensation for services prior to cancellation.*—(a) Except as provided by the provisions on retention of goods by the buyer (G.S. 25A-41(c)), within a reasonable time after a home-solicitation sale has been cancelled, the buyer must make available to the seller at the buyer's residence in substantially as good condition as received, any goods delivered under the contract or sale, or in the alternative, the buyer may comply with the instructions of the seller regarding the return shipment of the goods at the seller's expense and risk. The seller shall within 10 business days of receipt of the buyer's notice of cancellation notify the buyer whether the seller intends to repossess or to abandon any shipped or delivered goods. If the buyer makes the goods available to the seller and the seller does not pick them up within 20 days of the date of the notice of cancellation, the buyer may retain or dispose of the goods without any further obligation. If the buyer fails to make the goods available to the seller, or agrees to return the goods to the seller and fails to do so, then the buyer shall remain liable for performance of all obligations under the contract.

(b) The buyer has the duty of a bailee to take reasonable care of the goods in his possession before cancellation or revocation and for a reasonable time thereafter, during which time the goods are otherwise at the seller's risk.

(c) If the seller has performed any services pursuant to a home-solicitation sale prior to its cancellation, the seller is entitled to no compensation therefor.

(d) The seller shall not negotiate, transfer, sell, or assign any note, contract, or other evidence of indebtedness arising out of a home-solicitation sale to a finance company or other third party prior to midnight of the fifth business day following the day the contract was signed or the goods or services were purchased."

Sec. 5. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

S. B. 835 **CHAPTER 806**

AN ACT TO AMEND ARTICLE 30 OF CHAPTER 14 OF THE GENERAL STATUTES TO MAKE IT UNLAWFUL TO OBSTRUCT JUSTICE BY INTERFERING WITH EVIDENCE.

The General Assembly of North Carolina enacts:

Section 1. Article 30 of Chapter 14 of the General Statutes is hereby amended by adding thereto a new section, G.S. 14-221.1, to read as follows:

"§ 14-221.1. *Altering, destroying, or stealing evidence of criminal conduct.*— Any person who breaks or enters any building, structure, compartment, vehicle, file, cabinet, drawer, or any other enclosure wherein evidence relevant to any criminal offense or court proceeding is kept or stored with the purpose of altering, destroying or stealing such evidence; or any person who alters, destroys, or steals any evidence relevant to any criminal offense or court proceeding, shall be guilty of a felony punishable by a fine not to exceed five thousand dollars ($5,000), or imprisonment for not more than five years, or both."

Sec. 2. As used in this act, the word evidence shall mean any Article or document in the possession of a law enforcement officer or officer of the General Court of Justice being retained for the purpose of being introduced in evidence or having been introduced in evidence or being preserved as evidence.

Sec. 3. This act shall become effective on July 1, 1975, but shall not apply to any act consummated prior to the effective date of this act.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. B. 112 **CHAPTER 807**

AN ACT TO PROHIBIT POLITICAL PARTY OFFICERS FROM BEING PRECINCT OFFICIALS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-41(a) is amended by adding a new sentence to the third paragraph thereof, to read as follows:

"No person who is a chairman, vice-chairman, secretary, treasurer, precinct chairman, committeeman or other officer of any political party in North Carolina that is officially recognized under the provisions of G.S. 163-96 shall be eligible to serve as a registrar or judge of election."

Sec. 2. This act shall not apply to persons previously appointed to serve as precinct registrars or judges of election for terms ending before the 1976 primary election.

Sec. 3. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. B. 329 CHAPTER 808

AN ACT TO EXEMPT CERTAIN HOUSING FOR LOW AND MODERATE INCOME FAMILIES AND DISPLACED FAMILIES FROM AD VALOREM TAXATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-278.6(a) is amended by adding a new subdivision at the end thereof as follows:

"(8) A nonprofit organization providing housing for individuals or families with low or moderate incomes."

Sec. 2. This act shall become effective on January 1, 1976.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. B. 207 CHAPTER 809

AN ACT TO AMEND CHAPTER 163 OF THE GENERAL STATUTES SO AS TO INSURE CONTINUITY IN THE DESIGN OF BALLOTS.

The General Assembly of North Carolina enacts:

Section 1. Article 13 of Chapter 163 of the General Statutes is amended by adding a new section to be numbered and to read as follows:

"§ 163-140.1. *Political party alignment on ballots.*—All ballots printed for use in general elections in the State, district, county or any other political subdivision, shall be aligned with the number of political party columns required pursuant to instructions contained in G.S. 163-140(b) and the columns shall be assigned in strict alphabetical order, beginning with the left column, to the political parties entitled to ballot position provided such political parties reflect at least five percent (5%) of the total statewide voter registration, according to the latest statistical report published by the State Board of Elections. Political parties having less than five percent (5%) of the total statewide voter registration, but otherwise eligible for ballot position shall be assigned column alignment to the right of all other qualified political parties. The State Board of Elections shall be responsible for implementing the procedures required by this section and shall issue instructions to those counties using voting machines so as to accomplish the effect of this section whether such counties utilize voting machines that list party columns in a horizontal or vertical alignment. Every county board of elections shall follow the column alignment prescribed by the State Board of Elections."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. B. 600

CHAPTER 810

AN ACT WHEREBY THE STATE ENTERS INTO A PEST CONTROL COMPACT.

The General Assembly of North Carolina enacts:

Section 1. The Pest Control Compact is hereby enacted into law and entered into with all other jurisdictions legally joining therein in the form substantially as follows:

PEST CONTROL COMPACT.

ARTICLE I.

Findings.

The party states find that:

(a) In the absence of the higher degree of cooperation among them possible under this compact, the annual loss of approximately ten billion dollars ($10,000,000,000) from the depredations of pests is virtually certain to continue, if not to increase.

(b) Because of varying climatic, geographic and economic factors, each state may be affected differently by particular species of pests; but all states share the inability to protect themselves fully against those pests which present serious dangers to them.

(c) The migratory character of pest infestations makes it necessary for states both adjacent to and distant from one another, to complement each other's activities when faced with conditions of infestation and reinfestation.

(d) While every state is seriously affected by a substantial number of pests, and every state is susceptible of infestation by many species of pests not now causing damage to its crop and plant life and products, the fact that relatively few species of pests present equal danger to or are of interest to all states makes the establishment and operation of an insurance fund, from which individual states may obtain financial support for pest control programs of benefit to them in other states and to which they may contribute in accordance with their relative interests, the most equitable means of financing cooperative pest eradication and control programs.

ARTICLE II.

Definitions.

As used in this compact, unless the context clearly requires a different construction:

(a) "State" means a state, territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(b) "Requesting state" means a state which invokes the procedures of the compact to secure the undertaking or intensification of measures to control or eradicate one or more pests within one or more other states.

(c) "Responding state" means a state requested to undertake or intensify the measures referred to in subdivision (b) of this Article.

(d) "Pest" means any invertebrate animal, pathogen, parasitic plant or similar or allied organism which can cause disease or damage in any crops, trees, shrubs, grasses or other plants of substantial value.

(e) "Insurance Fund" means the Pest Control Insurance Fund established pursuant to this compact.

(f) "Governing Board" means the administrators of this compact representing all of the party states when such administrators are acting as a body in pursuance of authority vested in them by this compact.

(g) "Executive Committee" means the committee established pursuant to Article V(e) of this compact.

ARTICLE III.

The Insurance Fund.

There is hereby established the Pest Control Insurance Fund for the purpose of financing other than normal pest control operations which states may be called upon to engage in pursuant to this compact. The insurance fund shall contain moneys appropriated to it by the party states and any donations and grants accepted by it. All appropriations, except as conditioned by the rights and obligations of party states expressly set forth in this compact, shall be unconditional and may not be restricted by the appropriating state to use in the control of any specified pest or pests. Donations and grants may be conditional or unconditional, provided that the insurance fund shall not accept any donation or grant whose terms are inconsistent with any provision of this compact.

ARTICLE IV.

The Insurance Fund, Internal Operations and Management.

(a) The insurance fund shall be administered by a governing board and executive committee as hereinafter provided. The actions of the governing board and executive committee pursuant to this compact shall be deemed the actions of the insurance fund.

(b) The members of the governing board shall be entitled to one vote each on such board. No action of the governing board shall be binding unless taken at a meeting at which a majority of the total number of votes on the governing board are cast in favor thereof. Action of the governing board shall be only at a meeting at which a majority of the members are present.

(c) The insurance fund shall have a seal which may be employed as an official symbol and which may be affixed to documents and otherwise used as the governing board may provide.

(d) The governing board shall elect annually, from among its members, a chairman, a vice-chairman, a secretary and a treasurer. The chairman may not succeed himself. The governing board may appoint an executive director and fix his duties and his compensation, if any. Such executive director shall serve at the pleasure of the governing board. The governing board shall make provision for the bonding of such of the officers and employees of the insurance fund as may be appropriate.

(e) Irrespective of the civil service, personnel or other merit system laws of any of the party states, the executive director, or if there be no executive director, the chairman, in accordance with such procedures as the bylaws may provide, shall appoint, remove or discharge such personnel as may be necessary for the performance of the functions of the insurance fund and shall fix the duties and compensation of such personnel. The governing board in its bylaws shall provide for the personnel policies and programs of the insurance fund.

(f) The insurance fund may borrow, accept or contract for the services of personnel from any state, the United States, or any other governmental agency, or from any person, firm, association or corporation.

(g) The insurance fund may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies,

materials and services, conditional or otherwise, from any state, the United States, or any other governmental agency, or from any person, firm, association or corporation, and may receive, utilize and dispose of the same. Any donation, gift or grant accepted by the governing board pursuant to this paragraph or services borrowed pursuant to paragraph (f) of this Article shall be reported in the annual report of the insurance fund. Such report shall include the nature, amount and conditions, if any, of the donation gift, grant or services borrowed and the identity of the donor or lender.

(h) The governing board shall adopt bylaws for the conduct of the business of the insurance fund and shall have the power to amend and rescind these bylaws. The insurance fund shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto with the appropriate agency or officer in each of the party states.

(i) The insurance fund annually shall make to the Governor and legislature of each party state a report covering its activities for the preceding year. The insurance fund may make such additional reports as it may deem desirable.

(j) In addition to the powers and duties specifically authorized and imposed, the insurance fund may do such other things as are necessary and incidental to the conduct of its affairs pursuant to this compact.

ARTICLE V.

Compact and Insurance Fund Administration.

(a) In each party state there shall be a compact administrator, who shall be selected and serve in such manner as the laws of his state may provide, and who shall:

1. Assist in the coordination of activities pursuant to the compact in his state; and
2. Represent his state on the governing board of the insurance fund.

(b) If the laws of the United States specifically so provide, or if administrative provision is made therefor within the federal government, the United States may be represented on the governing board of the insurance fund by not to exceed three representatives. Any such representative or representatives of the United States shall be appointed and serve in such manner as may be provided by or pursuant to federal law, but no such representative shall have a vote on the governing board or on the executive committee thereof.

(c) The governing board shall meet at least once each year for the purpose of determining policies and procedures in the administration of the insurance fund and, consistent with the provisions of the compact, supervising and giving direction to the expenditure of moneys from the insurance fund. Additional meetings of the governing board shall be held on call of the chairman, the executive committee, or a majority of the membership of the governing board.

(d) At such times as it may be meeting, the governing board shall pass upon applications for assistance from the insurance fund and authorize disbursements therefrom. When the governing board is not in session, the executive committee thereof shall act as agent of the governing board, with full authority to act for it in passing upon such applications.

(e) The executive committee shall be composed of the chairman of the governing board and four additional members of the governing board chosen by it so that there shall be one member representing each of four geographic groupings of party states. The governing board shall make such geographic groupings. If there is representation of the United States on the governing board,

one such representative may meet with the executive committee. The chairman of the governing board shall be chairman of the executive committee. No action of the executive Committee shall be binding unless taken at a meeting at which at least four members of such committee are present and vote in favor thereof. Necessary expenses of each of the five members of the executive committee incurred in attending meetings of such committee, when not held at the same time and place as a meeting of the governing board, shall be charges against the insurance fund.

ARTICLE VI.

Assistance and Reimbursement.

(a) Each party state pledges to each other party state that it will employ its best efforts to eradicate, or control within the strictest practicable limits, any and all pests. It is recognized that performance of this responsibility involves:

1. The maintenance of pest control and eradication activities of interstate significance by a party state at a level that would be reasonable for its own protection in the absence of this compact.
2. The meeting of emergency outbreaks or infestations of interstate significance to no less an extent than would have been done in the absence of this compact.

(b) Whenever a party state is threatened by a pest not present within its borders but present within another party state, or whenever a party state is undertaking or engaged in activities for the control or eradication of a pest or pests, and finds that such activities are or would be impracticable or substantially more difficult of success by reason of failure of another party state to cope with infestation or threatened infestation, that state may request the governing board to authorize expenditures from the insurance fund for eradication or control measures to be taken by one or more of such other party states at a level sufficient to prevent, or to reduce to the greatest practicable extent, infestation or reinfestation of the requesting state. Upon such authorization the responding state or states shall take or increase such eradication or control measures as may be warranted. A responding state shall use moneys made available from the insurance fund expeditiously and efficiently to assist in affording the protection requested.

(c) In order to apply for expenditures from the insurance fund, a requesting state shall submit the following in writing:

1. A detailed statement of the circumstances which occasion the request for the invoking of the compact.
2. Evidence that the pest on account of whose eradication or control assistance is requested constitutes a danger to an agricultural or forest crop, product, tree, shrub, grass or other plant having a substantial value to the requesting state.
3. A statement of the extent of the present and projected program of the requesting state and its subdivisions, including full information as to the legal authority for the conduct of such program or programs and the expenditures being made or budgeted therefor, in connection with the eradication, control, or prevention of introduction of the pest concerned.
4. Proof that the expenditures being made or budgeted as detailed in item 3 do not constitute a reduction of the effort for the control or eradication of the pest concerned or, if there is a reduction, the reasons why the level

of program detailed in item 3 constitutes a normal level of pest control activity.

5. A declaration as to whether, to the best of its knowledge and belief, the conditions which in its view occasion the invoking of the compact in the particular instance can be abated by a program undertaken with the aid of moneys from the insurance fund in one year or less, or whether the request is for an installment in a program which is likely to continue for a longer period of time.

(6) Such other information as the governing board may require consistent with the provisions of this compact.

(d) The governing board or executive committee shall give due notice of any meeting at which an application for assistance from the insurance fund is to be considered. Such notice shall be given to the compact administrator of each party state and to such other officers and agencies as may be designated by the laws of the party states. The requesting state and any other party state shall be entitled to be represented and present evidence and argument at such meeting.

(e) Upon the submission as required by paragraph (c) of this Article and such other information as it may have or acquire, and upon determining that an expenditure of funds is within the purposes of this compact and justified thereby, the governing board or executive committee shall authorize support of the program. The governing board of the executive committee may meet at any time or place for the purpose of receiving and considering an application. Any and all determinations of the governing board or executive committee, with respect to an application, together with the reasons therefor shall be recorded and subscribed in such manner as to show and preserve the votes of the individual members thereof.

(f) A requesting state which is dissatisfied with a determination of the executive committee shall, upon notice in writing given within 20 days of the determination with which it is dissatisfied, be entitled to receive a review thereof at the next meeting of the governing board. Determinations of the executive committee shall be reviewable only by the governing board at one of its regular meetings, or at a special meeting held in such manner as the governing board may authorize.

(g) Responding states required to undertake or increase measures pursuant to this compact may receive moneys from the insurance fund, either at the time or times when such state incurs expenditures on account of such measures, or as reimbursement for expenses incurred and chargeable to the insurance fund. The governing board shall adopt and, from time to time, may amend or revise procedures for submission of claims upon it and for payment thereof.

(h) Before authorizing the expenditure of moneys from the insurance fund pursuant to an application of a requesting state, the insurance fund shall ascertain the extent and nature of any timely assistance or participation which may be available from the federal government and shall request the appropriate agency or agencies of the federal government for such assistance and participation.

(i) The insurance fund may negotiate and execute a memorandum of understanding or other appropriate instrument defining the extent and degree of assistance or participation between and among the insurance fund, cooperating federal agencies, states and any other entities concerned.

ARTICLE VII.

Advisory and Technical Committees.

The governing board may establish advisory and technical committees composed of state, local, and federal officials, and private persons to advise it with respect to any one or more of its functions. Any such advisory or technical committee, or any member or members thereof may meet with and participate in its deliberations. Upon request of the governing board or executive committee an advisory or technical committee may furnish information and recommendations with respect to any application for assistance from the insurance fund being considered by such board or committee and the board or committee may receive and consider the same: provided that any participant in a meeting of the governing board or executive committee held pursuant to Article VI(d) of the compact shall be entitled to know the substance of any such information and recommendations, at the time of the meeting if made prior thereto or as a part thereof or, if made thereafter, no later than the time at which the governing board or executive committee makes its disposition of the application.

ARTICLE VIII.

Relations with Nonparty Jurisdictions.

(a) A party state may make application for assistance from the insurance fund in respect of a pest in a nonparty state. Such application shall be considered and disposed of by the governing board or executive committee in the same manner as an application with respect to a pest within a party state, except as provided in this Article.

(b) At or in connection with any meeting of the governing board or executive committee held pursuant to Article VI(d) of this compact a nonparty state shall be entitled to appear, participate, and receive information only to such extent as the governing board or executive committee may provide. A nonparty state shall not be entitled to review of any determination made by the executive committee.

(c) The governing board or executive committee shall authorize expenditures from the insurance fund to be made in a nonparty state only after determining that the conditions in such state and the value of such expenditures to the party states as a whole justify them. The governing board or executive committee may set any conditions which it deems appropriate with respect to the expenditure of moneys from the insurance fund in a nonparty state and may enter into such agreement or agreements with nonparty states and other jurisdictions or entities as it may deem necessary or appropriate to protect the interests of the insurance fund with respect to expenditures and activities outside of party states.

ARTICLE IX.

Finance.

(a) The insurance fund shall submit to the executive head or designated officer or officers of each party state a budget for the insurance fund for such period as may be required by the laws of that party state for presentation to the legislature thereof.

(b) Each of the budgets shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. The requests for appropriations shall be apportioned among the party states as follows: one-tenth of the total budget in equal shares and the remainder in proportion to the value of agricultural and forest crops and products, excluding animals and animal products, produced in each party state. In determining the value of such crops

and products the insurance fund may employ such source or sources of information as in its judgment present the most equitable and accurate comparisons among the party states. Each of the budgets and requests for appropriations shall indicate the source or sources used in obtaining information concerning value of products.

(c) The financial assets of the insurance fund shall be maintained in two accounts to be designated respectively as the "operating account" and the "claims account". The operating account shall consist only of those assets necessary for the administration of the insurance fund during the next ensuing two-year period. The claims account shall contain all moneys not included in the operating account and shall not exceed the amount reasonably estimated to be sufficient to pay all legitimate claims on the insurance fund for a period of three years. At any time when the claims account has reached its maximum limit or would reach its maximum limit by the addition of moneys requested for appropriation by the party states, the governing board shall reduce its budget requests on a pro rata basis in such manner as to keep the claims account within such maximum limit. Any moneys in the claims account by virtue of conditional donations, grants or gifts shall be included in calculations made pursuant to this paragraph only to the extent that such moneys are available to meet demands arising out of claims.

(d) The insurance fund shall not pledge the credit of any party state. The insurance fund may meet any of its obligations in whole or in part with moneys available to it under Article IV(g) of this compact, provided that the governing board takes specific action setting aside such moneys prior to incurring any obligation to be met in whole or in part in such manner. Except where the insurance fund makes use of moneys available to it under Article IV(g) hereof, the insurance fund shall not incur any obligation prior to the allotment of moneys by the party states adequate to meet the same.

(e) The insurance fund shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the insurance fund shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the insurance fund shall be audited yearly by a certified or licensed public accountant and a report of the audit shall be included in and become part of the annual report of the insurance fund.

(f) The accounts of the insurance fund shall be open at any reasonable time for inspection by duly authorized officers of the party states and by any persons authorized by the insurance fund.

ARTICLE X.

Entry Into Force and Withdrawal.

(a) This compact shall enter into force when enacted into law by any five or more states. Thereafter, this compact shall become effective as to any other state upon its enactment thereof.

(b) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until two years after the executive head of the withdrawing state has given notice in writing of the withdrawal to the executive heads of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

ARTICLE XI.

Construction and Severability.

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating herein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

Sec. 2. Consistent with law and within available appropriations, the departments, agencies and officers of this State may cooperate with the insurance fund established by the Pest Control Compact.

Sec. 3. Pursuant to Article IV(h) of the compact, copies of bylaws and amendments thereto shall be filed with the Department of Agriculture.

Sec. 4. The compact administrator for this State shall be the Commissioner of Agriculture or his designated representative. The duties of the compact administrator shall be deemed a regular part of the duties of his office.

Sec. 5. Within the meaning of Article VI(b) or Article VIII(a), a request or application for assistance from the insurance fund may be made by the Commissioner of Agriculture or his designee whenever in his judgment the conditions qualifying this State for such assistance exist and it would be in the best interest of this State to make such request.

Sec. 6. The department, agency, or officer expending or becoming liable for an expenditure on account of a control or eradication program undertaken or intensified pursuant to the compact shall have credited to his account in the State Treasury the amount or amounts of any payments made to this State to defray the cost of such program, or any part thereof, or as reimbursement thereof.

Sec. 7. As used in the compact, with reference to this State, the term "executive head" shall mean the Governor.

Sec. 8. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. B. 1022 CHAPTER 811

AN ACT TO ANNEX A CERTAIN NONCONTIGUOUS AREA TO THE TOWN OF INDIAN BEACH AS "SATELLITE CORPORATE LIMITS".

The General Assembly of North Carolina enacts:

Section 1. The noncontiguous area described herein is hereby annexed to the Town of Indian Beach as satellite corporate limits, and the area shall be subject to the provisions of G.S. 160A-58.3 through G.S. 160A-58.6. Said area is described as follows:

Beginning at a point in the high water mark of Bogue Sound which point is the Northwest corner of that certain property known as Allen Autry Enterprises as shown by deed recorded in the office of the Register of Deeds of Carteret County in Book 341, Page 246, which point is further identified as being South 35-11 West 58 feet and North 48-06 West 221 feet from the Northwest corner

of the Episcopal Church Property; thence from said beginning point South 00-53 West 1,588.34 feet to a point in the high water mark of the Atlantic Ocean; thence along the high water mark of the Atlantic Ocean South 86-34 West 2,926.43 feet to a point; thence North 5-23 East 544.36 feet to a point; thence South 88-11 West 288 feet to a point; thence North 83-41 West 647.61 feet to a point; thence North 5-38 East 611.87 feet to a point in the high water mark of Bogue Sound; thence with the high water mark of Bogue Sound North 87-38 East 252.95 feet; North 32-12 East 260 feet; North 71-50 East 601.1 feet; North 75-10 East 1,033.38 feet; North 66-46 East 900 feet; North 70-49 East 340.26 feet; South 48-06 East 882.10 feet to the point or place of beginning.

Sec. 2. The Town of Indian Beach shall prepare an official map of the satellite corporate limit and file same in the office of the Register of Deeds of Carteret County. The area shall be subject to the zoning regulations of Carteret County.

Sec. 3. The Town of Indian Beach shall provide the same municipal services to the satellite area that it provides within its primary corporate limits no later than January 1, 1976.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. B. 1032 CHAPTER 812

AN ACT TO AMEND G.S. 105-116 TO PROVIDE THAT THE SIX PERCENT (6%) GROSS RECEIPTS TAX SHALL NOT BE APPLICABLE TO PROCEEDS OF DRILLING AND EXPLORATION SURCHARGES COLLECTED BY NATURAL GAS UTILITIES UNDER RULES OF THE UTILITIES COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Subsection (c) of Section 116 of Chapter 105 of the General Statutes of North Carolina is amended by deleting the period at the end thereof and adding the following:

"; provided further, that said tax shall not be applicable to special charges collected within this State by natural gas utilities pursuant to drilling and exploration surcharges approved by the Utilities Commission, where such surcharges are segregated from the other receipts of the natural gas utility and are devoted to drilling, exploration and other means to acquire additional supplies of natural gas for the account of natural gas customers in North Carolina and where the beneficial interest in said surcharge collections is preserved for the natural gas customers paying said surcharges under rules established by the Utilities Commission."

Sec. 2. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. B. 1086 **CHAPTER 813**

AN ACT TO AMEND CHAPTER 28A, ADMINISTRATION OF DECEDENT'S ESTATES ACT, TO PROVIDE FOR DIRECT PAYMENT TO A PARENT OR GUARDIAN OF A DEVISE OR LEGACY OF LESS THAN ONE THOUSAND FIVE HUNDRED DOLLARS ($1,500) IN VALUE.

The General Assembly of North Carolina enacts:

Section 1. Article 22 of Chapter 28A, as the same appears in the 1974 Cumulative Supplement to Volume 2A is hereby amended by adding a new section G.S. 28A-22-7 to read as follows:

"§ 28A-22-7. *Distribution to parent or guardian of a minor.*—(a) If a devise or legacy of personal property to a person under the age of 18 has a total value of less than one thousand five hundred dollars ($1,500), and the devisee or legatee is residing in the same household with a parent or, a guardian appointed prior to the decedent's death, the personal representative may distribute to the parent or guardian the devise or legacy. However, such distribution shall only be made with the prior approval of the clerk of court who issued the letters testamentary or of administration.

(b) If such distribution has been made the parent or guardian shall use the property solely for the education, maintenance and support of the devisee or legatee. However, the parent or guardian shall not be required to file an accounting with the clerk of court or to the personal representative, nor shall such distribution be cause for a delay in the filing of the personal representative's final account under the provisions of Article 21 of this Chapter.

(c) This section establishes a procedure that is separate from the provisions of G.S. 33-69.1 and it is not the intention of this section to repeal in whole or in part the provisions of G.S. 33-69.1.

(d) This section may also be applied to several devises or legacies of personal property to a single devisee or legatee having a combined total value of less than one thousand five hundred dollars ($1,500)."

Sec. 2. The provisions of G.S. 28A-22-7 shall apply to the estates of decedents being administered under the provisions of Chapter 28A as the same appears in the 1974 Cumulative Supplement to Volume 2A of the General Statutes.

Sec. 3. This act shall become effective October 1, 1975.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. B. 1092 **CHAPTER 814**

AN ACT TO AMEND G.S. 50-13.4 TO PROVIDE THE ADDITIONAL REMEDY OF AN INDEPENDENT GARNISHMENT PROCEEDING TO ENFORCE CHILD SUPPORT OBLIGATIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 50-13.4, as the same appears in Volume 2A of the 1974 Cumulative Supplement to the General Statutes of North Carolina, is hereby amended by adding the following sentence at the conclusion of subdivision (4) of subsection (f):

"In addition, an independent garnishment proceeding, as provided in G.S. 110A-9, shall be available for enforcement of child support obligations."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. B. 1221 CHAPTER 815

AN ACT TO REVISE AND DEFINE COST IN THE PROVISION PROHIBITING LOSS LEADER SALE OF MILK.

The General Assembly of North Carolina enacts:

Section 1. G.S. 106-266.19 as it appears in the 1974 Cumulative Supplement to Volume 3A of the General Statutes, is hereby amended as follows:

On line 5 after the word and punctuation "prohibited." insert a new sentence:

"However, milk may be sold below cost to meet competition if notice has been sent to the commission by registered or certified mail identifying the competitor or competitors."

On line 11 between the word "competition," and the word "or" insert:

"or that it was sold below cost to meet competition after notice has been sent to the commission by registered or certified mail identifying the competitor or competitors,".

On line 13 after the word "cost" and before the word "shall" insert:

"for a distributor or producer-distributor".

On line 15 after the sentence ending "and marketing expenses.", begin the following sentence:

"For a retailer the term 'cost' shall be construed to mean the wholesale invoice price paid for Grade A or Class I milk in the area where such sale is made, provided, however,".

On line 15 change the capital letter "I" in the word "In" to lower case letter "i" for the word "in".

On line 18 of the above sentence delete the words "received by the distributor or producer-distributor or" and insert the words "paid by the".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. B. 1228 CHAPTER 816

AN ACT TO CREATE A COMMITTEE ON INAUGURAL CEREMONIES IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. Chapter of the General Statutes of North Carolina is hereby amended by inserting therein a new Article to be designated Article and to read as follows:

"ARTICLE .

"Committee on Inaugural Ceremonies.

"§ . *Definitions.*—For the purposes of this Article:

(1) The term 'inaugural period' means the period which includes the day on which the ceremony inaugurating the Governor is held, the seven calendar days immediately preceding such day, and the seven calendar days immediately subsequent to such day; and

(2) The term 'inaugural planning period' means the period beginning July 1 of the year in which the Governor is elected and ending the last day in the inaugural period.

"§ . *Creation, appointment of members; members ex officio.*—There is hereby created a Committee on Inaugural Ceremonies to consist of three representatives to be appointed by the Speaker of the House, three senators to be appointed by the President of the Senate, three citizens to be appointed by the Governor, and three citizens to be appointed by the Governor-elect upon certification of his election. Of the three citizens appointed to the committee by the Governor, only two may be of the same political party. The Speaker of the House, the President of the Senate, the Governor, and, upon certification of their election, all members-elect of the Council of State, shall be ex officio members of the Committee on Inaugural Ceremonies.

"§ . *Time of appointments; terms of office.*—Appointments to the Committee on Inaugural Ceremonies shall be made on or before July 1 of years in which there is an election of the Governor. The term of office of the committee members, the Speaker of the House, the President of the Senate and the Governor who are members ex officio, shall begin on the first day of the inaugural planning period, and shall end on the last day of the inaugural period. The term of office of the members-elect of the Council of State, who are ex officio members of the committee, shall begin upon certification of their election, and shall end on the last day of the inaugural period.

"§ . *Vacancies.*—Vacancies in the appointive membership of the Committee on Inaugural Ceremonies occurring during a term shall be filled for the unexpired term by appointment by the officer who made the original appointment. Vacancies in the ex officio membership shall be filled for the unexpired term by election by the remaining members of the committee. A legislative vacancy on the committee shall be filled by a member of the same house in which the vacancy occurred.

"§ . *Chairman; rules of procedure; quorum.*—At its first meeting the Committee on Inaugural Ceremonies shall, by majority vote, elect a chairman from within the committee membership. There shall also be a vice-chairman who shall be designated by the Governor-elect from among his appointees on the committee who shall assume his duties upon appointment. The chairman, and in his absence the vice-chairman, shall preside over meetings of the committee. The committee shall adopt rules of procedure governing its meetings. Six members, excluding ex officio members, shall constitute a quorum of the committee.

"§ . *Meetings.*—The first meeting of the Committee on Inaugural Ceremonies shall be held during the inaugural planning period at the call of the President of the Senate. Thereafter the committee shall meet at the call of the chairman.

"§ . *Powers and duties.*—During the inaugural planning period the Committee on Inaugural Ceremonies shall plan and sponsor official parades, swearing-in ceremonies and other formal occasions connected with the swearing-in and

installation of the Governor and other members of the Council of State. Throughout the inaugural planning period the committee shall consult with and remain in close contact with the Governor-elect and all of the other members-elect of the Council of State upon certification of their election. Balls, dinners, testimonials, parties and other informal occasions shall be coordinated with official events by the committee; however, nothing in this Article shall preclude any group or person from conducting private events during the inaugural period.

"§ . *Offices; per diem and allowances of members; payments from appropriations.*—The facilities of the State Legislative Building shall be made available to the Committee on Inaugural Ceremonies by the Legislative Services Officer for the committee's work. The members of the committee, including ex officio members, shall be paid such per diem, subsistence and travel allowances as are prescribed by law for State boards and commissions generally. All payments for purposes authorized by this Article shall be paid by the State Treasurer upon written authorization of the chairman of the committee, from funds appropriated to the Contingency and Emergency Budget."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. B. 1237 CHAPTER 817

AN ACT TO EXCLUDE THOSE WHO PERFORM VOLUNTARY SKI SERVICES FROM THE DEFINITION OF EMPLOYEE FOR WORKMEN'S COMPENSATION PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 97-2(2) is amended by adding the following paragraph at the end thereof:

"Employee shall not include any person performing voluntary service as a ski patrolman who receives no compensation for such services other than meals or lodging or the use of ski tow or ski lift facilities or any combination thereof."

Sec. 2. This act shall become effective upon ratification but shall not affect any litigation then pending.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. B. 1252 CHAPTER 818

AN ACT TO MAKE A TECHNICAL CORRECTION IN CHAPTER 306 OF THE 1975 SESSION LAWS BY REMOVING LANGUAGE REFERRING TO A SECTION OF THE ACT WHICH WAS DELETED BY AMENDMENT PRIOR TO RATIFICATION.

The General Assembly of North Carolina enacts:

Section 1. Chapter 306 of the Session Laws is amended in Section 1 by deleting subsection (d) from the new G.S. 15A-503.

Sec. 2. Chapter 306 of the 1975 Session Laws is amended in Section 2 by deleting subsection (d) from the new G.S. 153A-225.1.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. B. 1253 **CHAPTER 819**

AN ACT TO AMEND CHAPTER 401 OF THE 1975 SESSION LAWS TO INCLUDE CERTAIN NEW SUBSTANCES IN SCHEDULE IV OF THE CONTROLLED SUBSTANCES ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-92(a) as the same is amended by Chapter 401 of the 1975 Session Laws is hereby amended by adding the substances Chlorazepate, Chlordiazepoxide, Clonazepam, Diazepam, Flurazepam and Oxazepam, so that the list appearing in G.S. 90-92(a) will appear as follows:

1. Barbital
2. Chloral betaine
3. Chloral hydrate
4. Chlorazepate
5. Chlordiazepoxide
6. Clonazepam
7. Diazepam
8. Ethchlorvynol
9. Ethinamate
10. Flurazepam
11. Mebutamate
12. Meprobamate
13. Methohexital
14. Methlyphenobarbital
15. Oxazepam
16. Paraldehyde
17. Petrichloral
18. Phenobarbital

Sec. 2. This act shall become effective July 15, 1975.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

S. B. 48 **CHAPTER 820**

AN ACT TO REQUIRE PUBLIC DISCLOSURE OF LOBBYING ACTIVITIES.

The General Assembly of North Carolina enacts:

Section 1. Article 9 of G.S. Chapter 120 is hereby rewritten to read as follows:

"Article 9.

"§ 120-40.1. *Definitions.*—For the purposes of this Article, the following terms shall have the meanings ascribed to them in this section unless the context clearly indicates a different meaning:

(a) The term 'person' means any individual, firm, partnership, committee, association, corporation or any other organization or group of persons.

(b) The term 'legislative agent' shall mean any person who is employed or retained, with compensation, by another person to give facts or arguments to any member of the General Assembly during any regular or special session thereof upon or concerning any bill, resolution, amendment, report or claim pending or to be introduced. The term 'legislative agent' shall include, but not

be limited to, corporate officers and directors and other individuals who are full or part-time employees of other persons and whose duties or activities as legislative agents, as hereinbefore defined, are incidental to the principal purposes for which they are employed or retained. The reimbursement of actual personal travel and subsistence expenses reasonably necessary to communicate with a member or members of the General Assembly shall not be considered compensation for purposes of determining whether a person is a legislative agent under this subsection.

(c) The terms 'contribution', 'compensation' and 'expenditure' mean any advance, conveyance, deposit, payment, gift, retainer, fee, salary, honorarium, reimbursement, loan, pledge or anything of value and any contract, agreement, promise or other obligation whether or not legally enforceable.

"§ 120-40.2. *Registration procedure.*—(a) In each General Assembly session and for each employer, or retainer, every person employed or retained as a legislative agent in this State shall, before engaging in any activities as a legislative agent, register with the Secretary of State.

(b) The form of such registration shall be prescribed by the Secretary of State and shall include the registrant's full name, firm, and complete address; the registrant's place of business; the full name and complete address of each person by whom the registrant is employed or retained; and a general description of the matters on which the registrant expects to act as legislative agent.

(c) Each legislative agent shall register again with the Secretary of State no later than 10 days after any change in the information supplied in his last registration under subsection (b). Such supplementary registration shall include a complete statement of the information that has changed.

(d) Within 20 days after the convening of each session of the General Assembly, the Secretary of State shall furnish each member of the General Assembly and the State Legislative Library a list of all persons who have registered as a legislative agent and whom they represent. A supplemental list shall be furnished periodically each 20 days thereafter as the session progresses.

"§ 120-40.3. *Written authority from employer to be filed; copy for legislative committee.*—Each legislative agent shall file with the Secretary of State within 10 days after his registration a written authorization to act as such, signed by the person employing him.

"§ 120-40.4. *Contingency lobbying fees and election influence prohibited.*—(a) No person shall act as a legislative agent for compensation which is dependent in any manner upon the passage or defeat of any proposed legislation or upon any other contingency connected with any action of the General Assembly, the House, the Senate or any committee thereof.

(b) No person shall attempt to influence the action of any member of the General Assembly by the promise of financial support of his candidacy, or by threat of financial contribution in opposition to his candidacy in any future election.

"§ 120-40.5. *Statements of legislative agent's lobbying expenses required.*—Each legislative agent shall file annually, within 30 days after the final adjournment of the regular session of the General Assembly held in a calendar year, a report with respect to each person represented setting forth the date, to whom paid, and amount of each expenditure made during the previous year in connection with promoting or opposing any legislation in any manner covered by this Article, in each of the following categories: (1) transportation, (2)

lodging, (3) entertainment, (4) food, (5) any item having a cash equivalent value of more than twenty-five dollars ($25.00) and (6) contributions made, paid, incurred or promised, directly or indirectly. It shall not be necessary to report expenditures in a particular category if the total amount expended in the particular category on behalf of a person represented is twenty-five dollars ($25.00) or less. A report shall be filed annually whether or not contributions or expenditures are made. All reports shall be in such form as shall be prescribed by the Secretary of State and shall be open to public inspection. When a legislative agent fails to file a lobbying expense report as required herein, the Secretary of State shall send a certified or registered letter advising the agent of his delinquency and the penalties provided by law. Within 20 days of the receipt of such letter, the agent shall deliver or post by United States mail to the Secretary of State the required report and an additional late filing fee of ten dollars ($10.00). Filing of the required report and payment of the additional fee within the time extended shall constitute compliance with this section. Failure to file an expense report in one of the manners prescribed herein shall result in revocation of any and all registrations of a legislative agent under this Article. No legislative agent may register or re-register under this Article until he has fully complied with this section.

"§ 120-40.6. *Statements of employer lobbying expenses required.*—Each person who employs or retains a legislative agent shall file annually, within 30 days after the final adjournment of the regular session of the General Assembly held in a calendar year, a report with respect to each agent employed or retained setting forth the date, to whom paid, and amount of each expenditure made during the previous year in connection with promoting or opposing any legislation in any manner covered by this Article, in each of the following categories: (1) transportation, (2) lodging, (3) entertainment, (4) food, (5) any item having a cash equivalent value of more than twenty-five dollars ($25.00), (6) contributions made, paid, incurred or promised, directly or indirectly, and (7) compensation to legislative agents. It shall not be necessary to report expenditures in any particular category if the total amount expended in the particular category on behalf of a person represented is twenty-five dollars ($25.00) or less. In the category of compensation to legislative agents it shall not be necessary to report the full salary, or any portion thereof, of a legislative agent who is a full-time employee of or is annually retained by the reporting employer. A report shall be filed annually whether or not payments are made. All reports shall be in the form prescribed by the Secretary of State and open to public inspection. When an employer or retainer of a legislative agent fails to file a lobbying expense report as required herein, the Secretary of State shall send a certified or registered letter advising the employer or retainer of his delinquency and the penalties provided by law. Within 20 days of the receipt of such letter, the employer or retainer shall deliver or post by United States mail to the Secretary of State the required report and a late filing fee of ten dollars ($10.00). Filing of the required report and payment of the late fee within the time extended shall constitute compliance with this section.

"§ 120-40.7. *Persons exempted from provisions of Article.*—The provisions of this Article shall not be construed to apply to any of the following:

(a) An individual, not acting as a legislative agent, solely engaged in expressing a personal opinion on legislative matters to his own legislative delegation or other members of the General Assembly.

(b) A person appearing before a legislative committee at the invitation or request of the committee or a member thereof and who engages in no further activities as a legislative agent in connection with that or any other legislative matter.

(c) A duly elected or appointed official or employee of the State, the United States, a county, municipality, school district or other governmental agency, when appearing solely in connection with matters pertaining to his office and public duties.

(d) A person performing professional services in drafting bills or in advising and rendering opinions to clients as to the construction and effect of proposed or pending legislation where such professional services are not otherwise, directly or indirectly, connected with legislative action.

(e) A person who owns, publishes or is employed by any news medium while engaged in the acquisition or dissemination of news on behalf of such news medium.

(f) Notwithstanding the persons exempted in this section, the Governor, Council of State, and all appointed heads of State departments, agencies and institutions, shall designate all authorized official legislative liaison personnel and shall file and maintain current lists of designated legislative liaison personnel with the Secretary of State and shall likewise file with the Secretary of State a full and accurate accounting of all money expended in influencing or attempting to influence legislation, other than the salaries of regular full-time employees.

(g) Members of the General Assembly.

"§ 120-40.8. *Punishment for violation.*—Whoever willfully violates any provision of this Article shall be guilty of a misdemeanor and upon conviction shall be fined not less than fifty dollars ($50.00) nor more than one thousand dollars ($1,000), or imprisoned not exceeding two years, or both. In addition, no legislative agent who is convicted of a violation of the provisions of this Article shall in any way act as a legislative agent for a period of two years following his conviction.

"§ 120-40.9. *Enforcement of Article by Attorney General.*—The Secretary of State shall report apparent violations of this Article to the Attorney General. The Attorney General shall, upon complaint made to him of violations of this Article, make an appropriate investigation thereof, and he shall forward a copy of the investigation to the district attorney of the judicial district of which Wake County is a part, who shall prosecute any person who violates any provisions of this Article."

Sec. 2. Present Article 9 of G.S. Chapter 120, G.S. 120-40 through G.S. 120-47, as it appears in the 1974 Replacement Volume 3B of the General Statutes and its 1974 Supplement is repealed.

Sec. 3. If any word, clause, sentence, paragraph, section, or other part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof.

Sec. 4. This act shall become effective January 1, 1977.

In the General Assembly read three times and ratified, this the 25th day of June, 1975.

S. B. 891 **CHAPTER 821**

AN ACT TO AMEND THE LOCAL GOVERNMENT BOND ACT AND REVENUE BONDS TO INCLUDE THE PURCHASE AND/OR LEASE OF NATURAL GAS FIELDS, NATURAL GAS RESERVES AND NATURAL GAS SUPPLIES AS A PURPOSE FOR WHICH BONDS MAY BE ISSUED BY A CITY; TO PROVIDE THAT THE DEFINITION OF PUBLIC ENTERPRISE INCLUDES SUCH ACTIVITIES; TO INCLUDE PUBLIC ENTERPRISE WITHIN THE DEFINITION OF UNDERTAKING FOR INTERLOCAL COOPERATION; AND TO ENABLE CITIES TO OPERATE SPECIFIED PARTS OF A GAS SYSTEM IN A PARTNERSHIP OR JOINT VENTURE ARRANGEMENT WITH NATURAL GAS UTILITIES AND PRIVATE ENTERPRISE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 159-48(d)(4) as the same appears in the 1974 Cumulative Supplement to Volume 3D of the General Statutes is amended by deleting the period at the end of subdivision (4) and inserting thereto the following words and punctuation:

", where systems shall also include the purchase and/or lease of natural gas fields and natural gas reserves and the purchase of natural gas supplies, and where any parts of such systems may be located either within the State or without."

Sec. 2. G.S. 159-81(3)c. as the same appears in the 1974 Cumulative Supplement to Volume 3D of the General Statutes is amended by deleting the period at the end of (3)c. and inserting thereto the following words and punctuation:

", where gas systems shall include the purchase and/or lease of natural gas fields and natural gas reserves and the purchase of natural gas supplies, and where any parts of such gas systems may be located either within the State or without."

Sec. 3. G.S. 160A-311(4) is amended by deleting the semicolon at the end of (4) and inserting thereto the following words and punctuation:

", where systems shall also include the purchase and/or lease of natural gas fields and natural gas reserves, the purchase of natural gas supplies, and the surveying, drilling and any other activities related to the exploration for natural gas, whether within the State or without."

Sec. 4. G.S. 160A-460(1) is amended on line 6 by inserting the words and punctuation "public enterprise," between the comma after the word "function" and the word "right" so that G.S. 160A-460(1) reads as follows:

"(1) 'Undertaking' means the joint exercise by two or more units of local government, or the contractual exercise by one unit for one or more other units, of any administrative or governmental power, function, public enterprise, right, privilege, or immunity of local government."

Sec. 5. G.S. 160A-312 as the same appears in the 1974 Cumulative Supplement to Volume 3D of the General Statutes, is amended by adding a new paragraph at the end of the second paragraph to read as follows:

"A city may operate that part of a gas system involving the purchase and/or lease of natural gas fields, natural gas reserves and natural gas supplies and the surveying, drilling or any other activities related to the exploration for natural

gas, in a partnership or joint venture arrangement with natural gas utilities and private enterprise."

Sec. 6. If any provision of this act shall be held invalid, the remainder of this act shall not be affected thereby.

Sec. 7. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of June, 1975.

S. B. 936

CHAPTER 822

AN ACT TO AMEND CHAPTER 24 OF THE GENERAL STATUTES TO SET THE LEGAL RATE OF INTEREST FOR COOPERATIVE MARKETING ASSOCIATIONS AT TEN PERCENT (10%).

The General Assembly of North Carolina enacts:

Section 1. Chapter 24 of the General Statutes of North Carolina is hereby amended by adding a new G.S. 24-1.3 thereto to read as follows:

"§ 24-1.3. *Legal rate of interest payable by cooperative marketing associations.*—Unless a greater rate of interest is allowed by this Chapter, the legal rate of interest payable by cooperative marketing associations shall not exceed ten percent (10%) per annum."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of June, 1975.

H. B. 127

CHAPTER 823

AN ACT TO ENCOURAGE DISTRICT COURT JUDGES TO SECURE SPECIAL TRAINING IN ORDER TO QUALIFY AS CERTIFIED TO HEAR JUVENILE CASES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-147 is amended by adding new subsection (c) to read as follows:

"(c) The policy of the State is to encourage specialization in juvenile cases by district court judges who are qualified by training and temperament to be effective in relating to youth and in the use of appropriate community resources to meet their needs. The Administrative Office of the Courts is therefore authorized to encourage judges who hear juvenile cases to secure appropriate training whether or not they were elected to a specialized judgeship as provided herein. Such training shall be provided within the funds available to the Administrative Office of the Courts for such training, and judges attending such training shall be reimbursed for travel and subsistence expenses at the same rate as is applicable to other State employees.

The Administrative Office of the Courts is authorized to develop a plan whereby a district court judge may be certified as qualified to hear juvenile cases by reason of training, experience and demonstrated ability. Any district court judge who meets such certification requirements shall receive a certificate to this effect from the Administrative Office of the Courts. In districts where there is a district court judge who is certified as qualified to hear juvenile cases as herein provided, the chief district judge shall assign such cases to this judge where practical and feasible."

Sec. 2. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 25th day of June, 1975.

H. B. 231 CHAPTER 824

AN ACT TO AMEND G.S. 143-436(b) AND (c) RELATING TO THE ESTABLISHMENT OF THE NORTH CAROLINA PESTICIDE BOARD.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-439(b) of Volume 3C of the General Statutes is hereby amended as follows:

(a) on line 1 delete the number "15" and insert the number "17";

(b) on line 11 delete the period and insert the following at the end thereof:

"; one member of the North Carolina Agricultural Aviation Association; and one member of the General Public (at large)."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of June, 1975.

H. B. 807 CHAPTER 825

AN ACT CONCERNING THE LOCATION OF ABC HEARINGS.

The General Assembly of North Carolina enacts:

Section 1. Article 4 of Chapter 18A of the General Statutes is hereby amended by adding a new section as follows:

"§ 18A-44.1. *Location of hearing.*—The hearing held by a hearing officer shall be held in the following localities: Ahoskie, Asheville, Charlotte, Elizabeth City, Fayetteville, Franklin, Goldsboro, Greensboro, Greenville, Hickory, Jacksonville, Kinston, New Bern, Raleigh, Statesville, Wilmington and Winston-Salem. Such hearing shall be held no more than 100 miles, as can reasonably be determined by the ABC Board, from the county seat of the county in which any person whose property or rights are the subject matter of the hearing maintains his residence. In any case, the person whose property or rights are the subject of the hearing and the State board may agree that the hearing is to be held in some other location. The location of hearings held under the authority of G.S. Chapter 18A shall be governed by this section, notwithstanding the provisions of the Administrative Procedure Act as contained in G.S. Chapter 150A."

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 25th day of June, 1975.

H. B. 1033 **CHAPTER 826**

AN ACT TO AMEND ARTICLE V OF THE CONSTITUTION OF NORTH CAROLINA TO AUTHORIZE THE GENERAL ASSEMBLY TO AUTHORIZE COUNTIES TO CREATE AUTHORITIES TO ISSUE REVENUE BONDS TO FINANCE INDUSTRIAL AND POLLUTION CONTROL PROJECTS FOR INDUSTRY AND POLLUTION CONTROL PROJECTS FOR PUBLIC UTILITIES, SUBJECT TO THE APPROVAL OF THE ELECTORATE.

The General Assembly of North Carolina enacts:

Section 1. Article V of the Constitution of North Carolina is hereby amended by adding a new section to be designated Section 8 and to read as follows:

"Sec. 8. Capital projects for industry. Notwithstanding any other provision of this Constitution, the General Assembly may enact general laws to authorize counties to create authorities to issue revenue bonds to finance, but not to refinance, the cost of capital projects consisting of industrial, manufacturing and pollution control facilities for industry and pollution control facilities for public utilities, and to refund such bonds.

In no event shall such revenue bonds be secured by or payable from any public moneys whatsoever, but such revenue bonds shall be secured by and payable only from revenues or property derived from private parties. All such capital projects and all transactions therefor shall be subject to taxation to the extent such projects and transactions would be subject to taxation if no public body were involved therewith; provided, however, that the General Assembly may provide that the interest on such revenue bonds shall be exempt from income taxes within the State.

The power of eminent domain shall not be exercised to provide any property for any such capital project."

Sec. 2. The Constitutional amendment set forth in Section 1 shall be submitted to the qualified voters of the State at the next State primary, general, or other statewide election for their ratification or rejection. Notice of the submission of the Constitutional amendment to the voters at such election shall be given by publication at least twice in a newspaper published in each county in the State or having a general circulation therein. The State shall reimburse the counties of the State for all necessary expenses incurred in holding said special election and registration therefor, the same to be paid out of the Contingency and Emergency Fund, unless the payment of such expenses is otherwise expressly provided for. At such election the State Board of Elections shall cause to be printed the following:

"FOR Constitutional amendment to permit the General Assembly to enact general laws to authorize counties to create authorities to issue revenue bonds to finance, but not to refinance, the cost of capital projects consisting of industrial, manufacturing and pollution control facilities for industry and pollution control facilities for public utilities, and to refund such bonds, such bonds to be secured by and payable only from revenues or property derived from private parties and in no event to be secured by or payable from any public moneys whatsoever.

"AGAINST Constitutional amendment to permit the General Assembly to enact general laws to authorize counties to create authorities to issue revenue

bonds to finance, but not to refinance, the cost of capital projects consisting of industrial, manufacturing and pollution control facilities for industry and pollution control facilities for public utilities, and to refund such bonds, such bonds to be secured by and payable only from revenues or property derived from private parties and in no event to be secured by or payable from any public moneys whatsoever."

Those qualified voters favoring the amendment shall vote by making an "X" or a check mark in the square beside the statement beginning "FOR", and those qualified voters opposed to the amendment shall vote by making an "X" or a check mark in the square beside the statement beginning "AGAINST".

Notwithstanding the foregoing provisions of this section, voting machines may be used in accordance with rules and regulations prescribed by the State Board of Elections.

Sec. 3. If a majority of votes cast thereon are in favor of the amendment, the State Board of Elections shall certify the amendment to the Secretary of State, who shall enroll the amendment so certified among the permanent records of his office, and the amendment shall become effective upon such certification.

Sec. 4. All laws and clauses of laws in conflict with this act are repealed.

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of June, 1975.

H. B. 1105 CHAPTER 827

AN ACT TO REVISE THE GENERAL STATUTES TO PROVIDE THAT DEPENDENT CHILDREN ARE AFFORDED SUPPORT BY THE RESPONSIBLE PARENT.

The General Assembly of North Carolina enacts:

Section 1. There is hereby added a new Chapter of the General Statutes of North Carolina immediately following Chapter 110, to be designated Chapter 110A, and to read as follows:

"CHAPTER 110A.

"Child Support.

"§ 110A-1. *Purposes.*—The purposes of this Chapter are to provide for the financial support of dependent children; to provide that public assistance paid to needy children is a supplement to the support provided by the responsible parent; to provide that the payment of public assistance creates a debt to the State; to provide that the acceptance of public assistance operates as an assignment of the right to child support; to provide for the location of absent parents; to provide for a determination that a responsible parent is able to support his children; and to provide for enforcement of the responsible parent's obligation to furnish support.

"§ 110A-2. *Definitions.*—As used in this Chapter:

(a) 'Court order' means any judgment or order of the courts of this State or of another state.

(b) 'Dependent child' means any person under the age of 18 who is not otherwise emancipated, married or a member of the Armed Forces of the United States.

(c) 'Responsible parent' means the natural or adoptive parent of a dependent child who has the legal duty to support said child and includes the father of an illegitimate child if paternity has been established in a judicial proceeding or if he has acknowledged paternity in open court or by verified written statement.

"§ 110A-3. *Action by the designated representatives of the county commissioners.*—Any county interested in the paternity and/or support of a dependent child may, if the mother, custodian, or guardian of the child neglects to bring such action, institute civil proceedings against the responsible parent of the child and may take up and pursue any action commenced by the mother, custodian or guardian for the maintenance of the child, including any ancillary action to establish paternity, if she fails to prosecute to final judgment. Such action shall be undertaken by the designated representative of the county commissioners in the county where the mother of the child resides or is found, in the county where the father resides or is found, or in the county where the child resides or is found. Any legal proceeding instituted under this section may be based upon information or belief. The parent of the child may be subpoenaed for testimony at the trial of the action to establish the paternity of and/or to obtain support for the child either instituted or taken up by the designated representative of the county commissioners. The husband-wife privilege shall not be grounds for excusing the mother or father from testifying at the trial nor shall said privilege be grounds for the exclusion of confidential communications between husband and wife. If a parent called for examination declines to answer upon the grounds that his testimony may tend to incriminate him, the court may require him to answer in which event he shall not thereafter be prosecuted for any criminal act involved in the conception of the child whose paternity is in issue and/or for whom support is sought, except for perjury committed in this testimony.

"§ 110A-4. *Compelling disclosure of information respecting the non-supporting responsible parent of a child receiving public assistance.*—(a) If a parent of any dependent child receiving public assistance fails or refuses to cooperate with the county in locating and securing support from a non-supporting responsible parent, this parent may be cited to appear before any judge of the district court and compelled to disclose such information under oath and/or may be declared ineligible for public assistance by the county department of social services for as long as he fails to cooperate.

(b) Any parent who, having been cited to appear before a judge of the district court pursuant to subsection (a), fails or refuses to appear or fails or refuses to provide the information requested may be found to be in contempt of said court and may be fined not more than one hundred dollars ($100.00) or imprisoned not more than six months or both.

(c) Any parent who is declared ineligible for public assistance by the county department of social services shall have his needs excluded from consideration in determining the amount of the grant, and the needs of the remaining family members shall be met in the form of a protective payment in accordance with G.S. 108-50.

"§ 110A-5. *Acknowledgment of paternity and agreement to support.*—(a) In lieu of or in conclusion of any legal proceeding instituted to establish paternity, the written acknowledgment of paternity executed by the putative father of the dependent child when accompanied by a written affirmation of paternity executed and sworn to by the mother of the dependent child and filed with and

approved by a judge of the district court in the county where the mother of the child resides or is found, or in the county where the putative father resides or is found, or in the county where the child resides or is found shall have the same force and effect as a judgment of that court; and a written agreement to support said child by periodic payments, which may include provision for reimbursement for medical expenses incident to the pregnancy and the birth of the child, accrued maintenance and reasonable expense of prosecution of the paternity action, when acknowledged before a clerk or assistant clerk of superior court and filed with, and approved by a judge of the district court, at any time, shall have the same force and effect, retroactively or prospectively, in accordance with the terms of said agreement, as an order of support entered by that court, and shall be enforceable and subject to modification in the same manner as is provided by law for orders of the court in such cases. Payments under such agreement shall be made through the clerk of superior court and in those cases of dependent children receiving public assistance shall be directed to the North Carolina Department of Human Resources. Such written affirmations, acknowledgments and agreements to support shall be sworn to, and shall be binding on the person executing the same whether he is an adult or a minor. Such mother shall not be excused from making such affirmation on the grounds that it may tend to disgrace or incriminate her; nor shall she thereafter be prosecuted for any criminal act involved in the conception of the child as to whose paternity she makes affirmation.

(b) At any time after the filing with the district court of an acknowledgment of paternity, upon the application of any interested party, the court or any judge thereof shall cause a summons signed by him or by the clerk or assistant clerk of superior court, to be issued, requiring the putative father to appear in court at a time and place named therein, to show cause, if any he has, why the court should not enter an order for the support of the child by periodic payments, which order may include provision for reimbursement for medical expenses incident to the pregnancy and the birth of the child, accrued maintenance and reasonable expense of the action under this subsection on the acknowledgment of paternity previously filed with said court. Provided that, in the case of a child, who upon reaching the age of 18 years is mentally or physically incapable of self-support, the putative father shall not be relieved of the duty of support unless said child is a long-term patient in a facility owned or operated by the North Carolina Division of Mental Health. The prior judgment as to paternity shall be res judicata as to that issue and shall not be reconsidered by the court. All such payments shall be made through the clerk of superior court and in those cases of dependent children receiving public assistance shall be directed to the North Carolina Department of Human Resources.

"§ 110A-6. *Agreements of support.*—In lieu of or in conclusion of any legal proceeding instituted to obtain support for a dependent child from the responsible parent, a written agreement to support said child by periodic payments executed by the responsible parent when acknowledged before a clerk or assistant clerk of superior court and filed with and approved by a judge of the district court in the county where the mother of the child resides or is found, or in the county where the father resides or is found, or in the county where the child resides or is found shall have the same force and effect, retroactively and prospectively, in accordance with the terms of said agreement, as an order of support entered by the court, and shall be enforceable and subject to

modification in the same manner as is provided by law for orders of the court in such cases. Payments under such agreement shall be made through the clerk of superior court and in those cases of dependent children receiving public assistance shall be directed to the North Carolina Department of Human Resources.

"§ 110A-7. *Filing of agreements; disclosure.*—All agreements entered into under the provisions of G.S. 110A-5 and G.S. 110A-6 shall be filed by the clerk of superior court in the county in which they are entered, any filing fees to be taxed to the responsible parent, and no information concerning any such agreement, the parties thereto or the contents thereof may be disclosed other than to the North Carolina Department of Human Resources, the county department of social services, the designated representative of the county commissioners, or the State Registrar of Vital Statistics except on order of a judge of this State.

"§ 110A-8. *Debt to State created.*—Payment of public assistance to or on behalf of a dependent child creates a debt due and owing the State by the responsible parent or parents of the child. Provided, however, that where a court has ordered child support incident to a final divorce decree or other final order for child support, the debt shall be limited to the amount specified in the decree or order. This liability shall attach only with respect to the period of time during which public assistance is granted and only if the responsible parent or parents were financially able to furnish support during this period.

The United States, the State of North Carolina, and any county within the State which has provided public assistance to or on behalf of a dependent child shall be entitled to share in any sum collected under this section, and their proportionate parts of such sum shall be determined in accordance with the matching formulas in use during the period for which assistance was paid.

No action to collect such debt shall be commenced after the expiration of five years subsequent to the receipt of the last grant of public assistance. The county attorney shall represent the State in all proceedings brought under this section.

"§ 110A-9. *Garnishment for enforcement of child support obligation.*—(a) Notwithstanding any other provision of the law, in any case in which a responsible parent is under a court order or has entered into a written agreement pursuant to G.S. 110A-5 or G.S. 110A-6 to provide child support, a judge of the district court in the county where the mother of the child resides or is found, or in the county where the father resides or is found, or in the county where the child resides or is found may enter an order of garnishment whereby no more than twenty percent (20%) of the responsible parent's monthly disposable earnings shall be garnished for the support of his minor child. For purposes of this section, 'disposable earnings' is defined as that part of the compensation paid or payable to the responsible parent for personal services, whether denominated as wages, salary, commission, bonus, or otherwise (including periodic payments pursuant to a pension or retirement program) which remains after the deduction of any amounts required by law to be withheld. The garnishee is the person, firm, association, or corporation by whom the responsible parent is employed.

(b) The mother, father, custodian, or guardian of the child or any county interested in the support of a dependent child may petition the court for an order of garnishment. The petition shall be verified and shall state that the responsible parent is under court order or has entered into a written agreement

pursuant to G.S. 110A-5 or G.S. 110A-6 to provide child support, that said parent is delinquent in such child support or has been erratic in making child support payments, the name and address of the employer of the responsible parent, the responsible parent's monthly disposable earnings from said employer (which may be based upon information and belief), and the amount sought to be garnished, not to exceed twenty percent (20%) of the responsible parent's monthly disposable earnings. The petition shall be served on both the responsible parent and his alleged employer in accordance with the provisions for service of process set forth in G.S. 1A-1, Rule 4. The responsible parent and his alleged employer shall have 20 days from the date of service or 30 days from the date stated in the notice of service of process by publication to respond to the petition for garnishment.

(c) A hearing on the petition shall be held within 10 days after the time for response has elapsed or within 10 days after the responses of both the responsible parent and the garnishee have actually been filed. Following the hearing the court may enter an order of garnishment not to exceed twenty percent (20%) of the responsible parent's monthly disposable earnings. If an order of garnishment is entered, a copy of same shall be served on the responsible parent and the garnishee either personally or by registered mail, return receipt requested. The order shall set forth sufficient findings of fact to support the action by the court and the amount to be garnished for each pay period. The order shall be subject to review for modification and dissolution upon the filing of a motion in the cause.

(d) Upon receipt of an order of garnishment, the garnishee shall transmit without delay to the clerk of superior court the amount ordered by the court to be garnished. These funds shall be disbursed to the party designated by the court which in those cases of dependent children receiving public assistance shall be the North Carolina Department of Human Resources.

(e) Any garnishee violating the terms of an order of garnishment shall be subject to punishment as for contempt.

"§ 110A-10. *Acceptance of public assistance constitutes assignment of support rights to the county.*—By accepting public assistance for or on behalf of a dependent child or children, the recipient shall be deemed to have made an assignment to the county from which such assistance was received of the right to any child support owed for the child or children up to the amount of public assistance paid. The county shall be subrogated to the right of the child or children or the person having custody to initiate a support action under this Chapter and to recover any payments ordered by the court of this or any other state.

"§ 110A-11. *Duty of county to obtain support.*—Whenever a county department of social services receives an application for public assistance on behalf of a dependent child, and it shall appear to the satisfaction of the county department that the child has been abandoned by one or both responsible parents, or that the responsible parent(s) has failed to provide support for the child, the county department shall notify the designated representative of the county commissioners who shall take appropriate action under this Chapter to provide that the parent(s) responsible supports the child.

"§ 110A-12. *Location of absent parents.*—The Department of Human Resources shall attempt to locate absent parents for the purpose of establishing paternity of and/or securing support for dependent children. The department is

to serve as a registry for the receipt of information which directly relates to the identity or location of absent parents, to assist any governmental agency or department in locating an absent parent, to answer interstate inquiries concerning deserting parents, and to develop guidelines for coordinating activities with any governmental department, board, commission, bureau or agency in providing information necessary for the location of absent parents.

In order to carry out the responsibilities imposed under this Chapter, the department may request from any governmental department, board, commission, bureau or agency information and assistance. All State, county and city agencies, officers and employees shall cooperate with the department in the location of parents who have abandoned and deserted children with all pertinent information relative to the location, income and property of such parents, notwithstanding any provision of law making such information confidential. All records maintained by the department pertaining to child support enforcement shall be confidential, and only duly authorized representatives of social service agencies, public officials with child support enforcement and related duties, and members of legislative committees shall have access to these records.

"§ 110A-13. *Conformity with federal requirements.*—Nothing in this Chapter is intended to conflict with any provision of federal law or to result in the loss of federal funds.

"§ 110A-14. *Effectuation of intent of Chapter.*—The North Carolina Department of Human Resources shall supervise the administration of this program in accordance with federal law and shall cause the provisions of this Chapter to be effectuated and to secure child support from absent, deserting, abandoning and non-supporting parents. The Department of Human Resources and a county may negotiate alternative arrangements to the procedure as outlined in G.S. 110A-3 for designating a local agency to administer the provisions of this act in said county."

Sec. 2. In the event any section, subsection, sentence, clause or phrase of this Chapter shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the other sections, subsections, sentences, clauses or phrases of this Chapter, which shall remain in full force and effect, as if the section, subsection, sentence, clause or phrase so declared or adjudged invalid or unconstitutional were not originally a part thereof.

Sec. 3. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 25th day of June, 1975.

H. B. 1169 CHAPTER 828

AN ACT TO EXEMPT FROM THE PRIVILEGE TAX ON LAUNDRIES PERSONS WHO OWN OR OPERATE APARTMENT BUILDINGS CONTAINING WASHING MACHINES AND DRYERS FURNISHED FOR THE USE OF TENANTS OF THE APARTMENT BUILDINGS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-85 is amended by adding after the second paragraph a new paragraph to read as follows:

"'Launderettes and launderalls' shall mean commercial establishments in which automatic washing machines and dryers are installed for the use of individual customers, including those which contain coin-operated or coin-

activated washing machines. However, 'launderettes and launderalls' shall not include persons who own or operate apartment buildings in which they provide such machines for the exclusive use and convenience of tenants therein, nor shall such persons be considered to be engaged in any 'similar type business'."

Sec. 2. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 25th day of June, 1975.

H. B. 1213 CHAPTER 829

AN ACT TO INCREASE THE FEE CHARGED UNDER G.S. 7A-308(a)(1) FOR FORECLOSURE UNDER POWER OF SALE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-308(a)(1) as the same appears in the 1974 Cumulative Supplement to Volume 1B of the General Statutes is hereby amended by deleting the symbol and figures "$10.00" and inserting in lieu thereof the symbol and figures "$15.00".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of June, 1975.

H. B. 1268 CHAPTER 830

AN ACT TO REIMBURSE THE FAMILY OF DONALD PETTEWAY FOR ATTORNEY FEES INCURRED IN DEFENDING DAMAGE SUIT ARISING OUT OF SCHOOL BUS ACCIDENT.

Whereas, on May 6, 1968, Donald Petteway, a Smith High School Junior and school bus driver, attempted to drive a busload of students around a parked car on Merritt Drive. That while proceeding around the car at 10 m.p.h., he put a fifty dollar ($50.00) dent in a car occupied by a woman; and

Whereas, on May 5, 1971, a personal injury action was served on Donald Petteway asking for thirty-five thousand dollars ($35,000) for injuries arising out of the above collision; and

Whereas, under then existing law, if a school bus driver was involved in an accident, and the victim sued the driver in civil court, neither the State, the county, the city nor the schools were required to help the bus driver. Neither is the driver's private insurance company because the bus driver was driving a public vehicle; and

Whereas, the Petteways hired an attorney at their own expense to defend the civil action and have expended the sum of five hundred twenty-one dollars ($521.00) in attorney fees; and

Whereas, the matter came on for trial several times and each time was continued because one of the plaintiff's witnesses failed to show up. That finally on October 31, 1973, an involuntary dismissal was ordered, and the time for reopening the case has expired; and

Whereas, an inequity will lie if the family of Donald Petteway is not reimbursed for the money they paid in attorney's fee in defending this civil action; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The Greensboro City Board of Education is hereby authorized to reimburse the family of Donald Petteway the sum of five hundred twenty-one dollars ($521.00), less any sum which may have been paid by insurance, which it incurred as attorney's fee in defending the civil action.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of June, 1975.

H. B. 1120 CHAPTER 831

AN ACT TO PROVIDE FOR REVOCATION OF MOTOR VEHICLE OPERATOR LICENSE UPON CONVICTION OF ASSAULT WITH MOTOR VEHICLE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-17 is hereby amended by adding a new subsection to be designated as subsection (11) and to read as follows:

"(11) Conviction of assault with a motor vehicle."

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 25th day of June, 1975.

H. B. 1150 CHAPTER 832

AN ACT TO AMEND G.S. 97-33 TO COVER EPILEPSY UNDER THE SECOND INJURY FUND.

The General Assembly of North Carolina enacts:

Sec. 1. G.S. 97-33, as the same appears in the 1972 Replacement Volume 2D of the General Statutes of North Carolina is amended by inserting immediately after the word "employee" in line 1, the words "is an epileptic, or".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of June, 1975.

H. B. 1164 CHAPTER 833

AN ACT TO ALLOW MOBILE HOME LIGHTING EQUIPMENT TO BE DESIGNATED BY THE COMMISSIONER OF MOTOR VEHICLES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 20 of the General Statutes is hereby amended by adding a new section as follows:

"§ 20-129.2. *Lighting equipment for mobile homes.*—Notwithstanding the provisions of G.S. 20-129 and G.S. 20-129.1, the lighting equipment required to be provided and equipped on a house trailer, mobile home, modular home, or structural component thereof shall be as designated by the Commissioner of Motor Vehicles and from time to time promulgated by regulation of the department."

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 25th day of June, 1975.

H. B. 1184 **CHAPTER 834**

AN ACT TO ALLOW ALL 12 MONTH EMPLOYEES IN PUBLIC SCHOOL EDUCATION TO TAKE LEAVE IN THE FISCAL YEAR FOLLOWING ITS EARNING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115-157(3) and (4) as the same appear in the 1974 Cumulative Supplement to Volume 3, Replacement Volume 1966 of the General Statutes, are hereby amended to strike the period presently concluding each and to add the following at the conclusion of each:

", provided that such leave may be cumulated up to 15 days and taken within the first 60 days of the next ensuing fiscal year."

Sec. 2. G.S. 115-157(6), as the same now appears in the 1974 Cumulative Supplement to Volume 3, Replacement Volume 1966 of the General Statutes, is hereby amended to delete the period which presently concludes it and to add the following at the conclusion of it:

", except as provided above."

Sec. 3. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 25th day of June, 1975.

H. B. 1201 **CHAPTER 835**

AN ACT TO AUTHORIZE THE ATTORNEY GENERAL TO EMPLOY AN ATTORNEY TO PERFORM LEGAL SERVICES FOR THE REAL ESTATE LICENSING BOARD AND TO PROVIDE FOR THE SALARY AND EXPENSES FOR SUCH ATTORNEY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 114 of the General Statutes is hereby amended by adding the following section thereto:

"§ 114-4.2C. *Employment of attorney for the Real Estate Licensing Board.*— The Attorney General is hereby authorized to employ an attorney and assign him full time to the North Carolina Real Estate Licensing Board. Such attorney shall be subject to all the provisions of Chapter 126 of the General Statutes relating to the State Personnel System. Such attorney shall also perform such additional duties as may be assigned to him by the Attorney General."

Sec. 2. The North Carolina Real Estate Licensing Board shall fully reimburse the North Carolina Department of Justice for the compensation of such attorney employed under the provisions of this act.

Sec. 3. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 25th day of June, 1975.

H. B. 1209 **CHAPTER 836**

AN ACT TO AMEND G.S. 163-302(a) TO SET A TIME BY WHICH CITIES MUST ADOPT A RESOLUTION ALLOWING ABSENTEE VOTING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-302(a) is amended by inserting after the words "absentee voting may, upon resolution of the municipal governing board, be permitted." the following new sentences: "Such resolution must be adopted no later than 50 days prior to an election in order to be effective for that election. Any such resolution shall remain effective for all future elections unless repealed no later than 50 days before an election. A copy of all resolutions adopted under this section shall be filed with the State Board of Elections and the county board of elections conducting the election within 10 days of passage."

Sec. 2. This act shall become effective July 2, 1975.

In the General Assembly read three times and ratified, this the 25th day of June, 1975.

H. B. 1212 **CHAPTER 837**

AN ACT TO REVISE AND REWRITE ARTICLE 24 OF CHAPTER 58 OF THE GENERAL STATUTES RELATING TO MUTUAL BURIAL ASSOCIATIONS.

The General Assembly of North Carolina enacts:

Section 1. Article 24 of Chapter 58 of the General Statutes of North Carolina, as the same appears in the 1975 Replacement Volume 2B of the General Statutes, is hereby revised and rewritten to read as follows:

"ARTICLE 24.

"Mutual Burial Associations.

"§ 58-224. *Mutual Burial Associations placed under supervision of Burial Association Commission; Commission to select Burial Association Administrator.*—All Mutual Burial Associations now organized in the State of North Carolina, and all Mutual Burial Associations hereafter organized and operating within said State, shall be under the general supervision of the North Carolina Mutual Burial Association Commission. The number of members composing this commission and the manner of electing or appointing such members shall be as set out in G.S. 58-224.1.

The commission shall maintain and operate such office facilities and shall employ such investigative, accounting, legal, secretarial and clerical employees as may be necessary for the efficient administration of the Mutual Burial Association laws and regulations adopted pursuant thereto. The chief executive officer and administrator of such office shall be known as the Burial Association Administrator, and the office shall be known as the office of the Burial Association Administrator. All expenses of such office facilities and personnel shall be paid from funds coming to the office of the Burial Association pursuant to this Article and other applicable law. The administrator shall have all powers granted to the Burial Association Administrator by this Article, all powers which the North Carolina Mutual Burial Association Commission may lawfully grant to such administrator and all powers necessary and incidental to the powers heretofore enumerated. The person heretofore appointed by the

Governor of the State of North Carolina and serving as Burial Association Administrator on the effective date of this act shall serve until the completion of the term for which such person was appointed. If the office of the Burial Association Administrator shall become vacant for any reason prior to the expiration of the term of the person presently holding the office, such vacancy shall be filled by the Governor of the State of North Carolina and the person thus appointed shall serve only for the remainder of the unexpired term. Thereafter, the Governor shall appoint the Burial Association Administrator upon recommendation of the Burial Association Commission. The salary of the person serving as Burial Association Administrator on the effective date of this act, and the salary of any person serving as Burial Association Administrator throughout the remainder of any term for which such present incumbent was appointed, shall be fixed by the Governor subject to the approval of the Advisory Budget Commission. Thereafter, the salary of the Burial Association Administrator shall be fixed by the North Carolina Mutual Burial Association Commission subject to the approval of the Advisory Budget Commission. The Burial Association Administrator shall give bond approved by the Commissioner of Insurance of the State of North Carolina in the sum of ten thousand dollars ($10,000), conditioned for his faithful application of all funds coming into his hands by virtue of his office.

"§ 58-224.1. *North Carolina Mutual Burial Association Commission; membership; election; duties.*—The North Carolina Mutual Burial Association Commission shall be composed of five members chosen as follows: (a) Each of the two members serving on the commission on the effective date of this act who was elected by the North Carolina Funeral Directors Association, the member serving on the commission on the effective date of this act who was elected by the Funeral Directors and Morticians Association of North Carolina and the member serving on the commission on the effective date of this act who was elected by the North Carolina Perpetual Care Cemetery Association shall serve until the completion of the term for which such member was elected and until the successor for such member is elected or appointed (as the case may be) and qualified.

(b) (1) A vacancy occurring in the commission prior to January 1, 1977, because of the expiration of the term of a commission member (other than the commission member appointed by the Governor as hereinafter provided) shall be filled as follows: At least 90 days prior to the expiration of the term of the commission member whose term is expiring, the North Carolina Burial Association Administrator and the president and vice-president of the North Carolina Burial Association, Incorporated, shall select the names of two persons who are mutual burial association officers. The names of the two persons so selected shall be printed on a ballot by the administrator and one ballot mailed by him to each burial association operator in the State who is or would be eligible to join the North Carolina Burial Association, Incorporated. No burial association operator shall be entitled to more than one vote. Each operator shall vote for one name on the ballot and shall return the ballot to the Burial Association Administrator by mail by posting the same on or before a date designated on the said ballot, which date shall be no later than 30 days prior to the expiration of the term of the commission member for whom a successor is being elected. The name of any other nominee may be written on the ballot

and space on the ballot for the writing-in of any such name shall be provided. The person receiving the highest number of votes shall be deemed elected to the commission and shall serve for a term of five years. In case of a tie vote, the winner shall be selected by lot and shall serve for a term of five years.

(2) A vacancy occurring in the commission after December 31, 1976, because of the expiration of the term of a commission member (other than the commission member appointed by the Governor as hereinafter provided) shall be filled in accordance with such rules and regulations as shall be determined by the North Carolina Burial Association, Incorporated, and as approved by the North Carolina Mutual Burial Association Commission, provided that each burial association operator in the State who is or would be eligible to join the North Carolina Burial Association, Incorporated, shall be entitled to vote and further provided that no burial association operator shall be entitled to more than one ballot.

(3) A vacancy occurring in the commission prior to January 1, 1977, because of the resignation, death or removal for cause of a member of the commission (other than the commission member appointed by the Governor as hereinafter provided) shall be filled within 90 days of the occurrence of the vacancy as follows: The North Carolina Burial Association Administrator and the president and vice-president of the North Carolina Burial Association, Incorporated, shall select the names of two persons who are mutual burial association officers. The names of the persons so selected shall be printed on a ballot by the administrator and one ballot mailed by him to each burial association operator in the State who is or would be eligible to join the North Carolina Burial Association, Incorporated. No burial association operator shall be entitled to more than one vote. Each operator shall vote for one name on the ballot and shall return the ballot to the Burial Association Administrator by mail by posting the same on or before a date set forth in the said ballot. The name of any other nominee may be written on the ballot and space on the ballot for the writing in of any such name shall be provided. The person receiving the highest number of votes shall be deemed elected to the commission and shall serve for the remainder of the unexpired term to which such person was elected. In case of a tie vote, the winner shall be selected by lot and shall serve for the remainder of the unexpired term to which such person was elected.

(4) A vacancy occurring in the commission after December 31, 1976, because of the resignation, death or removal for cause of a member of the commission (other than the commission member appointed by the Governor as hereinafter provided) shall be filled within 90 days of the date of the occurrence of the vacancy in accordance with such rules and regulations as shall be determined by the North Carolina Burial Association, Incorporated, and as approved by the North Carolina Mutual Burial Association Commission, provided that each burial association operator in the State who is or would be eligible to join the North Carolina Burial Association, Incorporated, shall be entitled to vote and further provided that no burial association operator shall be entitled to more than one ballot.

(c) In the event that the North Carolina Burial Association, Incorporated, shall fail to select, within the time provided herein, a person to fill a vacancy on the commission, whether the said vacancy shall have occurred by reason of expiration of term, resignation, death or otherwise, the Burial Association Administrator may declare the seat vacant and appoint any eligible person or persons to serve the term of the vacant seat.

(d) Not more than three members of the commission who shall have been elected or appointed thereto, as the case may be, in accordance with the provisions of subsection (b) or subsection (c) shall be of the same race.

(e) The member serving on the commission on the effective date of this act who was appointed by the Governor shall continue to serve until the completion of the term for which such member was appointed and until the successor for such member is appointed and qualified. This membership on the commission shall continue to be filled by appointment by the Governor and each such subsequent appointment shall be for a term of five years. The member appointed by the Governor shall be a citizen of the State of North Carolina. In the event that this position on the commission should become vacant by resignation, death or otherwise, a successor to serve for the unexpired term shall be appointed by the Governor within 90 days of the date of the vacancy.

(f) Any member of the commission elected or appointed, as the case may be, in accordance with the provisions of either subsection (b), (c) or (d) shall serve to the end of the term for which such member was elected or appointed, as the case may be, and until such member's successor shall have been elected or appointed, as the case may be, and qualified.

(g) No member of the commission shall be allowed to serve for two successive full terms, but this shall not prevent a member elected or appointed to complete an unexpired term, which unexpired term is less than a full five years, from being elected to one successive full five-year term.

(h) All members of the commission before assuming the duties of their office, shall take an oath for the faithful performance of their duties.

"§ 58-224.2. *Duties of commission; meetings; burial administrator; secretary.*—It shall be the duty of the North Carolina Mutual Burial Association Commission to supervise, pursuant to this Article, all burial associations authorized by this Article to operate in North Carolina, to determine that such associations are operated in conformity with this Article and the rules and regulations adopted pursuant to this Article; to assist the Burial Association Administrator with prosecution of violations of this Article or rules and regulations adopted pursuant thereto; to counsel with and advise the Burial Association Administrator in the performance of his duties and to protect the interest of members of mutual burial associations.

The North Carolina Mutual Burial Association Commission, after a public hearing, may promulgate reasonable rules and regulations for the enforcement of this Article and in order to carry out the intent thereof. The commission is authorized and directed to adopt specific rules and regulations to provide for the orderly transfer of a member's benefits in cash or merchandise and services from the funeral director sponsoring the member's association to the funeral establishment which furnishes a funeral service, or merchandise, or both, for the burial of the member, provided that any funeral establishment to which the member's benefits are transferred in accordance with such rules and regulations shall, if located in North Carolina, be a funeral establishment registered under

the provisions of G.S. 90-210.17 or shall, if located in any other state, territory or foreign country, be a funeral establishment recognized by and operating in conformity with the laws of such other state, territory or foreign country. One or more burial associations operating in North Carolina may merge into another burial association operating in North Carolina and two or more burial associations operating in North Carolina may consolidate into a new burial association provided that any such plan of merger or plan of consolidation shall be adopted and carried out in accordance with rules and regulations adopted by the commission pursuant to this Article.

All rules and regulations heretofore adopted by the Burial Association Administrator in accordance with prior law and which have not been amended, rescinded, revoked or otherwise changed, or which have not been nullified or made inoperative or unenforceable because of any statute enacted after the adoption of any such rule, shall remain in full force and effect until amended, rescinded, revoked or otherwise changed by action of the Burial Association Commission as set out above, or until nullified or made inoperative or unenforceable because of statutory enactment or court decision.

The commission shall elect its own chairman, who shall vote only when the commission is evenly divided.

The commission shall hold regular meetings at least twice each year, and more often if called by the chairman in Raleigh, or such place in North Carolina as the chairman may direct. Special meetings of the commission may also be called in Raleigh or such other place in North Carolina as they may direct, by a majority of the commission.

The Burial Association Administrator shall serve as secretary of the commission and shall keep minutes of all regular and special meetings.

All regular or special meetings of the commission, unless a majority of the members of the commission vote otherwise, shall be open to the public. All regular meetings shall be advertised in at least three newspapers having intercounty circulation in North Carolina.

Members of the commission shall receive, when attending such regular or special meetings such per diem, expense allowance and travel allowance as are allowed other commissions and boards of the State. The legal adviser to the commission shall be entitled to actual expenses when attending regular or special meetings of the commission held other than in Raleigh. All expenses of the commission shall be paid from funds coming to the administrator pursuant to this Article.

"§ 58-225. *Requirements as to rules and bylaws.*—All burial associations now operating within the State of North Carolina, and all burial associations hereafter organized and operating within the State of North Carolina shall have and maintain rules and bylaws embodying the following:

Article 1. The name of this association shall be _____,
which shall indicate that said association is a mutual burial association.

Article 2. The objects and purposes for which this association is formed and the purposes for which it has been organized, and the methods and plan of operation of this association shall be to provide a plan for each member of this association for the payment of one funeral benefit for each member, which benefit shall consist of a funeral in cash or merchandise and service, with no free embalming or free ambulance service included in such benefits. No other free service or any other thing free shall be held out, promised or furnished, in any

case. Such funeral benefit shall be in the amount of one hundred dollars ($100.00) of cash or merchandise and service, without free embalming or free ambulance service, for persons of the age of 10 years and over, or in the amount of fifty dollars ($50.00) for persons under the age of 10 years; provided, however, that any member of this association of the age of 10 years or more may purchase a double benefit (for a total benefit of two hundred dollars ($200.00)), and provided further, however, that any member of this association under the age of 10 years may purchase a double benefit (for a total benefit of one hundred dollars ($100.00)) or a quadruple benefit (for a total benefit of two hundred dollars ($200.00)); however, any additional benefit (as set out herein) shall be based on the assessment rate, as provided in Article 6 of this section, at the attained age of applicant at the time the additional benefit takes effect. The purchase of an additional benefit shall not be available to any member who cannot fulfill the requirements as set forth in Article 3 of this section.

Article 3. Any person who has passed his or her first birthday, and who has not passed his or her sixty-fifth birthday, and who is in good health and not under treatment of any physician, nor confined in any institution for the treatment of mental or other disease, may become a member of this burial association by the payment by such person, or for such person, of a membership fee in accordance with the provisions of this Article and the first assessment due on the membership issued for such member in accordance with the provisions of Article 6 herein. The membership fee for any person joining prior to July 1, 1975, is twenty-five cents (25¢). The membership fee of any person joining after July 1, 1975, is twenty-five cents (25¢) for each one hundred dollars ($100.00) of benefits provided in such membership, with a minimum membership fee of twenty-five cents (25¢). The payment of the membership fee, without the payment of the first quarterly assessment due on the membership, shall not authorize the issuance of a certificate of membership in this burial association, and a certificate of membership for such person shall not be issued until the first such assessment is paid. Any member of this association joining after July 1, 1975, and who shall thereafter purchase an increased benefit shall pay an additional membership fee in accordance with this Article so that the total membership fee paid by such person shall equal twenty-five (25¢) for each one hundred dollars ($100.00) of benefits in such member's membership; provided, that any member with a fifty-dollar ($50.00) benefit who increases his benefit from fifty dollars ($50.00) to one hundred dollars ($100.00) shall not be required to pay any additional membership fee. The payment of any additional membership fee, without the payment of the first additional assessment due for the increased benefit, shall not make such member eligible for any additional benefit, and such member shall not be eligible for any additional benefit until the first such additional assessment due for such additional benefit is paid. Notwithstanding the foregoing, the provisions of the last paragraph of Article 6, hereinafter set out, shall control the increase of benefits from fifty dollars ($50.00) to one hundred dollars ($100.00) for any member of this association joining under the age of 10 whose benefits in force upon such member attaining his or her tenth birthday are in the amount of fifty dollars ($50.00).

Applicant's birthday must be written in the application and subject to verification by any record the Burial Association Administrator may deem necessary to prove or establish a true date of the birth of any applicant.

Article 4. The annual meeting of the association shall be held at _____ (Here insert the place, date and hour); each member shall have one vote at said annual meeting and 15 members of the association shall constititute a quorum. There shall be elected at the annual meeting of said association a board of directors of seven members, each of whom shall serve for a period of from one to five years as the membership may determine and until his or her successor shall have been elected and qualified. Any member of the board of directors who shall fail to maintain his or her membership, as provided in the rules and bylaws of said association, shall cease to be a member of the board of directors and a director shall be appointed by the president of said association for the unexpired term of such disqualified member. There shall be at least an annual meeting of the board of directors, and such meeting shall be held immediately following the annual meeting of the membership of the association. The directors of the association may, by a majority vote, hold other meetings of which notice shall be given to each member by mailing such notice five days before the meeting to be held. At the annual meetings of the directors of the association, the board of directors shall elect a president, a vice-president, and a secretary-treasurer. The president and vice-president shall be elected from among the directors, but the secretary-treasurer may be selected from the director membership or from the membership of the association, it being provided that it is not necessary that the secretary-treasurer shall be a member of the board of directors. Among other duties that the secretary-treasurer may perform, he shall be chargeable with keeping an accurate and faithful roll of the membership of this association at all times and he shall be chargeable with the duty of faithfully preserving and faithfully applying all moneys coming into his hands by virtue of his said office. The president, vice-president and secretary-treasurer shall constitute a board of control who shall direct the affairs of the association in accordance with these Articles and bylaws of the association, and subject to such modification as may be made or authorized by an act of the General Assembly. The secretary-treasurer shall keep a record of all assessments made, dues collected and benefits paid. The books of the association, together with all records and bank accounts shall be at all times open to the inspection of the Burial Association Administrator or his duly constituted auditors or representatives. It shall be the duty of the secretary or secretary-treasurer of each association to keep the books of the association posted up-to-date so that the financial standing of the association may be readily ascertained by the Burial Association Administrator or any auditor or representative employed by him. Upon the failure of any secretary or secretary-treasurer to comply with this provision, it shall be the duty of the Burial Association Administrator to take charge of the books of the association and do whatever work is necessary to bring the books up-to-date. The actual costs of said work may be charged the burial association and shall be paid from the thirty percent (30%) allowed by law for the operation of the burial association.

Whenever in the opinion of the Burial Association Administrator, it is necessary to audit the books of any burial association more than three times in any calendar year, the Burial Association Commission shall have authority to assess such burial association the actual cost of any audit in excess of three per calendar year, provided that no more than three audits may be deemed necessary unless a discrepancy exists at the last regular audit. Such cost shall be

paid from the thirty percent (30%) allowed by law for the operation of the burial association.

Every burial association shall file with the North Carolina Mutual Burial Association Commission an annual report of its financial condition on a form furnished to it by the North Carolina Burial Association Administrator. Such report shall be filed on or before February 15 of each calendar year and shall cover the complete financial condition of the burial association for the immediate preceding calendar year. The Burial Association Commission shall levy and collect a penalty of twenty-five dollars ($25.00) for each day after February 15 that the report called for herein is not filed. The commission may, in its discretion, grant any reasonable extension of the above filing date without the penalty provided in this section. Such penalty shall be paid from the thirty percent (30%) allowed by law for the operation of the burial association. Any secretary or secretary-treasurer who fails to file such financial report on or before February 15 of each calendar year or on or before the last day of any period of extension for the filing of such report granted by the commission to the burial association of such secretary or secretary-treasurer shall be guilty of a misdemeanor and shall be punished by a fine of not in excess of one hundred dollars ($100.00) and imprisoned for not in excess of 30 days, or both fined and imprisoned. Each day after February 15, or the last day of any period of extension for the filing of the report granted by the commission to the burial association of such secretary or secretary-treasurer, that said report is not filed by the secretary or secretary-treasurer of a burial association, shall constitute a separate offense.

Article 5. Upon the death of any officer, his successor shall be elected by the board of directors for the unexpired term. The president, vice-president and secretary-treasurer shall be elected for a term of from one to five years, and shall hold office until his successor is elected and qualified, subject to the power of the board of directors to remove any officer for good cause shown; Provided, that any officer removed by the board of directors shall have the right of appeal to the membership of the association, such appeal to be heard at the next ensuing annual meeting of said membership.

Article 6. Each member shall be assessed according to the following schedule for the benefit indicated (or in multiples thereof for additional benefit) at the age of entry of the member.

Assessment Rate For Age Groups:

First to tenth birthday ($50.00) benefit	five cents (5¢)
Tenth to thirtieth birthday ($100.00) benefit	ten cents (10¢)
Thirtieth to fiftieth birthday ($100.00) benefit	twenty cents (20¢)
Fiftieth to sixty-fifth birthday ($100.00) benefit	thirty cents (30¢)

(Ages shall be defined as having passed a certain birthday instead of nearest birthday.) Assessment shall always be made on the entire membership in good standing.

Any member joining under the age of 10 shall, upon attaining his or her 10th birthday, pay thereafter the assessment for a member age 10 as set out above.

Any member joining under the age of 10 whose benefits in force upon such member attaining his or her 10th birthday are in the amount of fifty dollars ($50.00) shall, if such member is in good standing upon attaining his or her 10th birthday, thereafter have benefits in force in the amount of one hundred dollars ($100.00) without the necessity of making application for such increased benefit. Assessments made thereafter for such member shall be the same as an assessment for a member age 10 as set out above. Such one hundred-dollar ($100.00) benefit shall be in full force and effect for any such member in good standing immediately upon such member attaining his or her 10th birthday even though the increased assessment provided for herein shall not yet be due and payable, it being the intent of this Article that, notwithstanding any other provisions in these Articles, any member in good standing with a fifty-dollar ($50.00) benefit shall immediately upon attainment of his or her 10th birthday have a one hundred-dollar ($100.00) benefit in force whether or not the increased assessment is then due and payable by such member in accordance with the assessment period of this association.

Article 7. No benefit will be paid for natural death occurring within 30 days from the date of the certificate of membership, which certificate shall express the true date such person becomes a member of this association, and the certificate issued shall be in acknowledgment of membership in this association. Benefits will be paid for death caused by accidental means occurring any time after date of membership certificate. No benefits will be paid in case of suicidal death of any member within one year from the date of the membership certificate. No agent or other person shall have authority to issue membership certificates in the field, but such membership certificates shall be issued at the home office of the association by duly authorized officers: the president, vice-president or secretary, and a record thereof duly made.

Article 8. Any member failing to pay any assessment within 30 days after notice shall be in bad standing, and unless and until restored, shall not be entitled to benefits. Notice shall be presumed duly given when mailed, postage paid, to the last known address of such members: Provided, moreover, that notice to the head of a family shall be construed as notice to the entire membership of such family in said association. Any member or head of a family changing his or her address shall give notice to the secretary-treasurer in writing of such change, giving the old address as well as the new, and the head of a family notifying the secretary-treasurer of change in address shall list with the secretary in such notice all the members of his or her family having membership in said association. Any member in bad standing may, within 90 days after the date of an assessment notice, be reinstated to good standing by the payment of all delinquent dues and assessments: Provided such person shall at the same time submit to the secretary-treasurer satisfactory evidence of good health, in writing, and no benefit will be paid for natural death occurring within 30 days after reinstatement. In case of death caused by accidental means, benefit will be in force immediately after reinstatement. Any person desiring to discontinue his membership for any reason shall communicate such desire to the secretary-treasurer immediately and surrender his or her certificate of membership. Any adult member who is the head of a family and who, with his family, has become in bad standing, shall furnish to the secretary-treasurer satisfactory evidence of the good health of each member desired to be reinstated in writing.

Article 9. The benefits herein provided are for the purpose of furnishing a funeral and burial benefit, in cash or merchandise and service, for a deceased member. The funeral and burial benefit, if furnished in merchandise and service, shall be in keeping with and similar to the merchandise and service sold and furnished at the same price by reputable funeral directors of this or other like communities.

Article 10. It is understood and stipulated that the benefits provided for shall be payable only to a funeral establishment which provides a funeral service for a deceased member and which, if located in North Carolina, is a funeral establishment registered under the provisions of G.S. 90-210.17 or which, if located in any other state, territory or foreign country, is a funeral establishment recognized by and operating in conformity with the laws of such other state, territory or foreign country. Upon the death of any member it shall be the duty of the person or persons making the funeral arrangements for such deceased member to notify the secretary of the member's burial association of the death of such member before funeral arrangements are made. Provided, however, that if the person or persons making the funeral arrangements for such deceased member have no knowledge of the deceased person's membership in such burial association, then the person or persons making the funeral arrangements for such deceased member shall have 30 days from the date of the death of such member in which to make demand upon the burial association for the funeral benefits to which such member is entitled.

The benefits provided for are to be paid by the burial association to the funeral director providing such funeral and burial service either in cash or in merchandise and service as elected by the person or persons making the funeral arrangements for such deceased member. If the burial association shall fail, on demand, to provide the benefits to which the deceased member was entitled to the funeral establishment which provided the funeral service for the deceased member, then the benefits shall be paid in cash to the representative of the deceased member qualified under law to receive such benefits.

Article 11. Assessments shall be made as provided in G.S. 58-237.1. Whenever possible, assessments will be made at definitely stated intervals so as to reduce the cost of collection and to prevent lapse.

Article 12. In the event the proceeds of the annual assessments imposed on the entire membership for one year, as provided in G.S. 58-237.1, do not prove sufficient at any time to yield the benefit provided for in these bylaws, then the secretary-treasurer shall notify the North Carolina Burial Association Administrator who shall be authorized, unless the membership is increased to that point where such assessments are sufficient, to cause liquidation of said association, and may transfer all members in good standing to a like organization or association.

Article 13(a). All legitimate operating expenses of the association shall be paid out of the assessments, but in no case shall the entire expenses exceed thirty percent (30%) of the total of the assessments collected and the investment income of the burial association in one calendar year.

(b) Each burial association shall establish and maintain a reserve account for the payment of member's benefits. On the 31st day of December following July 1, 1975, each burial association shall transfer to such burial association's reserve account established in accordance with this Article all funds which such burial association is maintaining on that date in an account designated by such burial

association as either a surplus account or a reserve account. Thereafter, beginning on January 1, 1976, each burial association shall place in such reserve account five percent (5%) of the assessments collected from and after that date and five percent (5%) of the investment income of the association earned from and after that date plus any amount of the thirty percent (30%) allowed from and after that date for operating expenses as set forth in paragraph (a) above and not actually expended in the year allowed. These sums shall continue to be placed in the association's reserve account until the association's reserve account shall equal twenty-one dollars ($21.00) per member. Thereafter if the reserve account shall fall below twenty-one dollars ($21.00) per member, such sums shall again be deposited in the account until such time as the reserve account shall again be equal to twenty-one dollars ($21.00) per member. If the reserve account shall at any time exceed twenty-one dollars ($21.00) per member, amounts in excess of twenty-one dollars ($21.00) per member may be withdrawn from the reserve account.

Article 14. Special meetings of the association membership may be called by the secretary-treasurer when by him deemed necessary or advisable, and he shall call a meeting when petitioned to do so by sixty-six and two-thirds percent (66 2/3%) of the members of said association who are in good standing.

Article 15. The secretary-treasurer shall, upon satisfactory evidence that membership was granted to any person not qualified at the time of entry as provided under Article 3 of these bylaws, refund any amounts paid as assessment, and shall remove the name from the membership roll.

Article 16. Any member may pay any number of assessments in advance, in which case such member will not be further assessed until a like number of assessments shall have been levied against the remaining membership.

Article 17. No person may maintain active membership in two or more separate burial associations. Any person who is found to have membership in two or more separate burial associations shall forfeit all benefits and fees paid in all associations of which he is a member except in the association which he first joined and of which he is still then a member. A person is not a member of an association for purposes of this Article if he has discontinued his membership in such association or if such association has been placed in liquidation.

Article 18. Each year, before the annual meeting of the membership of this association, the association shall cause to be published in a newspaper of general circulation in the county in which such association has its principal place of business, or shall cause to be mailed to each member in good standing a statement showing total income collected, expenses paid and burial benefits provided for by such association during the next preceding year.

Article 19. These rules and bylaws shall not be modified, canceled or abridged by any association or other authority except by act of the General Assembly of North Carolina.

"§ 58-226. *Limitation of soliciting agents; licensing and qualifications; officers exempt from license; issuance of membership certificates.*—Each burial association shall have for each funeral home sponsoring the said burial association not more than five agents or representatives soliciting members other than the secretary-treasurer and president, and before any agent or representative shall or may represent any burial association in North Carolina, he or she shall first apply to the Burial Association Administrator of North Carolina for a license, and the Burial Association Administrator shall have full

power and authority to issue such license upon proof satisfactory to such administrator that such person is capable of soliciting burial association memberships, is of good moral character and recommended by the association in behalf of which such membership solicitations are to be made. The Burial Association Administrator may reject the application of any person who does not meet the requirements as to capacity and moral fitness. The Burial Association Administrator may, upon proof satisfactory to him that said licensed agent has violated any section of this law, revoke said license. Upon the issuing of a license to solicit membership in any burial association, such person shall be required to pay in cash, at the time of issuing license to such applicant, to the Burial Association Administrator, the sum of five dollars ($5.00); moneys derived from this fee or charge, are to be and remain in the department or office of such Burial Association Administrator, for supervision of burial associations in this State, subject to withdrawal for expenses of supervision by authority of the Burial Association Administrator. It shall not be necessary that the president or secretary-treasurer of any burial association obtain a license for soliciting membership in the association of which such person is president or secretary-treasurer. Membership certificates shall not be issued by a solicitor in the field, but shall be reported to the office of the association and there issued and a record made of such issuance at the time such certificate is so issued.

"§ 58-227. *Assessments against association for expenses of Burial Association Administrator.*—In order to meet the expenses of the supervision of the burial associations, the North Carolina Mutual Burial Association Commission shall prepare an annual budget for the office of the Burial Association Administrator. This budget shall be submitted to and shall be subject to approval by the Advisory Budget Commission. Thereafter, the Burial Association Administrator shall prorate the amount of this budget, over and above any other funds made available to him for this purpose, and assess each association on a pro rata basis in accordance with the number of members of each association. Each burial association shall remit to the Burial Association Administrator its pro rata part of the total assessment, which expense shall be included in the thirty per centum (30%) expense allowance as provided in Article 13 of G.S. 58-226. This assessment shall be made on the first day of July of each and every year and said assessment shall be paid within 30 days thereafter. If any association shall fail or refuse to pay such assessment within 30 days, the Burial Association Administrator is authorized to transfer all memberships and assets of every kind and description to the nearest association that is found by the Burial Association Administrator to be in good sound financial condition.

"§ 58-228. *Unlawful to operate without written authority of commission.*—It shall be unlawful for any person, firm or corporation, association or organization to organize, operate, or in any way solicit members for a burial association, or for participation in any plan, scheme, or device similar to burial associations, without the written authority of the North Carolina Mutual Burial Association Commission, and any person, firm or corporation violating the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than two hundred fifty dollars ($250.00) or imprisoned not less than 12 months, or both, in the discretion of the court; provided, however, the Burial Association Commission shall not withhold authority for the organization or operation of a bona fide burial association, meeting the requirements of this Article, unless it shall be found and established to the

satisfaction of the Burial Association Commission that the person or persons applying for authority to organize and operate such bona fide burial association is disqualified or does not meet the requirements of this Article.

"§ 58-228.1. *Revocation of license.*—In the event it is proven to the satisfaction of the Burial Association Administrator that any burial association is being operated not in conformity with any provision of this Article, then it shall become the duty of the Burial Association Administrator upon hearing to revoke the license of said burial association and transfer said burial association, its membership and all its assets of every kind and description to another burial association that is found by the Burial Association Administrator to be in good sound financial condition; provided, that if said burial association gives notice of appeal as provided for in G.S. 58-236, then said burial association may continue to operate as before the revocation and until final adjudication.

"§ 58-228.2. *Deposit or investment of funds of mutual burial associations.*—Funds belonging to each mutual burial association over and above the amount determined by the Burial Association Administrator to be necessary for operating capital shall be invested in:

(1) Deposits in any bank or trust company in this State.

(2) Obligations of the United States of America.

(3) Obligations of any agency or instrumentality of the United States of America if the payment of interest and principal of such obligations is fully guaranteed by the United States of America.

(4) Obligations of the State of North Carolina.

(5) Bonds and notes of any North Carolina local government or public authority, subject to such restrictions as the Burial Association Commission may impose.

(6) Shares of or deposits in any savings and loan association organized under the laws of this State and shares of or deposits in any federal savings and loan association having its principal office in this State, provided that any such savings and loan association is insured by the United States of America or any agency thereof or by any mutual deposit guaranty association authorized by the Commissioner of Insurance of North Carolina to do business in North Carolina pursuant to Article 7A of Chapter 54 of the General Statutes.

(7) Obligations of the Federal Intermediate Credit Banks, the Federal Home Loan Banks, the Federal National Mortgage Association, the Banks for Cooperatives, and the Federal Land Banks, maturing no later than 18 months after the date of purchase.

Violation of the provisions of this section shall, after hearing, be cause for revocation or suspension of license to operate a Mutual Burial Association.

"§ 58-228.3. *Unclaimed funds of defunct burial association.*—Any funds on deposit in any bank or other financial institution in this State in the name of any burial association that is no longer in operation and has no members shall be transferred to the office of the State Burial Administrator for the operation of such office and the purposes provided in G.S. 58-228.

"§ 58-229. *Penalty for failure to operate in substantial compliance with Article 24.*—If any burial association or other organization or official thereof, or any person operates or allows to be operated a burial association on any plan, scheme or bylaws not in substantial compliance with the bylaws set forth in G.S. 58-226, the Burial Association Administrator may revoke any authority or license granted for the operation of such burial association, and any person, firm

or corporation or association convicted of the violation of this section shall be guilty of a misdemeanor and shall be fined not less than two hundred fifty dollars ($250.00) or imprisoned not less than one year in jail, or both, in the discretion of the court.

"§ 58-230. *Penalty for wrongfully inducing person to change membership.*—Any burial association official, agent or representative thereof or any person who shall use fraud or make any promise not part of the printed bylaws, or who shall offer any rebate, gratuity or refund to cause a member of one association to change membership to another association, shall be guilty of a misdemeanor and upon conviction shall be fined not less than two hundred fifty dollars ($250.00) or imprisoned not less than one year in jail, or both, in the discretion of the court.

"§ 58-231. *Penalty for making false and fraudulent entries.*—Any person or burial association official who makes or allows to be made any false entry on the books of the association with intent to deceive or defraud any member thereof, or with intent to conceal from the Burial Association Administrator or his deputy or agent, or any auditor authorized to examine the books of such association, under the supervision of the Burial Association Administrator, shall be guilty of a misdemeanor and upon conviction shall be fined not less than two hundred fifty dollars ($250.00), or imprisoned in the common jail for not less than 12 months, or both, in the discretion of the court.

"§ 58-232. *Accepting applications without collecting fee and first assessment.*—Any burial association official, agent or representative, or any other person who shall accept any application for membership in any association without collecting the membership fee and first assessment due thereon from any such person making such an application for membership, shall be guilty of a misdemeanor and upon conviction shall be fined not less than two hundred fifty dollars ($250.00), or imprisoned not less than 12 months or both, in the discretion of the court.

Any burial association official, agent or representative, or any other person who shall accept an application for an additional benefit from a member of a burial association without collecting the additional membership fee and the additional assessment due thereon from any such person making such an application for an additional benefit shall be guilty of a misdemeanor and upon conviction shall be fined not less than two hundred fifty dollars ($250.00), or imprisoned not less than 12 months, or both, in the discretion of the court.

"§ 58-233. *Removal of secretary-treasurer for failure to maintain proper records.*—Any burial association secretary-treasurer who fails to maintain records to the minimum standards required by the Burial Association Administrator shall be by such administrator removed from office and another elected in his stead, such election to be immediate and by the board of directors of said burial association upon notice of such removal.

"§ 58-234. *Free services; failure to make proper assessments, etc., made a misdemeanor.*—Any person or persons who offer free funeral services or free embalming, free ambulance service or any other thing free of charge, acting for any burial association, directly or indirectly, or who so acting shall in any way fail to assess for the amount needed to pay death losses and allowable expenses, shall be guilty of a misdemeanor and upon conviction shall be fined not less than two hundred fifty dollars ($250.00) or imprisoned for not less than 12 months, or both, in the discretion of the court.

"§ 58-235. *Right of appeal upon revocation or suspension of license.*—Upon the revocation or suspension of any license or authority by the North Carolina Burial Association Administrator, under any of the provisions of this Article, the said association or individual whose license or authority has been revoked or suspended shall have the right of appeal from the action of the Burial Association Administrator in revoking or suspending such license or authority to the Superior Court of Wake County or to the superior court of the county in which the said association or the said individual is domiciled or, upon agreement of the parties to the appeal, to any other superior court of the State. The association or individual appealing from the order of the Burial Association Administrator shall give notice of appeal in writing to the Burial Association Administrator, with a copy of such notice to the clerk of the superior court to which the appeal is taken, within 10 days of the date of notice of the order revoking or suspending the said license or authority and shall pay such appeal fees to the clerk of superior court as are required by law. Within 30 days after receipt of the notice of appeal, the Burial Association Administrator shall file with the clerk of the superior court of the county in which the appeal is to be heard the decision of the Burial Association Administrator. Upon receipt of such decision, the clerk of superior court shall place the matter upon the civil issue docket of the superior court and the same shall be heard *de novo*. Pending such appeal, the burial association or individual whose license or authority has been suspended or revoked shall continue to operate or function as before the revocation or suspension and until final adjudication by the superior court.

"§ 58-236. *Bond of secretary or secretary-treasurer of burial associations.*—The secretary or secretary-treasurer of each burial association shall, before entering upon the duties of his office, and for the faithful performance thereof, execute a bond payable to the Burial Association Administrator as trustee for the burial association in some bonding company licensed to do business in this State, to be approved by the Burial Association Administrator. Said bond shall be in an amount not less than one thousand dollars ($1,000), nor more than ten thousand dollars ($10,000), in the discretion of the administrator, for those associations whose assets, as determined by the administrator's audit, are ten thousand dollars ($10,000) or less. For those associations whose assets, as determined by the administrator's audit, are in excess of ten thousand dollars ($10,000), said bond shall be in an amount of ten thousand dollars ($10,000) plus twenty-five per centum (25%) of all assets over ten thousand dollars ($10,000); provided, however, that the bond required by this section shall not in any event exceed fifty thousand dollars ($50,000). If any association operates a branch or subsidiary and the officers of both associations are the same, for purposes of this section, it shall be treated as one association. Any burial association, with the consent of the Burial Association Administrator, may give a bond secured by a deed of trust on real estate situated in North Carolina, in lieu of procuring said bond from a bonding company. The bond thus given shall not be acceptable in excess of the ad valorem tax value for the current year of the real estate securing said bond. The deed of trust shall be recorded in the county or counties wherein the land lies and shall be deposited with the Burial Association Administrator, name the administrator as trustee for the burial association and must constitute a first lien on the property secured by the deed of trust. Said deed of trust shall contain a description of the encumbered property by metes and bounds together with evidence by title insurance policy

or by certificate of an attorney-at-law, certifying that said trustor is the owner of a marketable fee simple title to such lands.

"§ 58-236.1. *Assessments.*—Every burial association now or hereinafter organized shall make 12 assessments, or their equivalent, per year per member. The Burial Association Administrator shall order any association to make more than 12 assessments per year when, after notice and hearing, it shall appear to the Burial Association Administrator that the death loss of any association so requires in order to protect the interest of the members.

"§ 58-236.2. *Making false or fraudulent statement a misdemeanor.*—Any officer or employee of any burial association authorized to do business under this Article, who shall knowingly or willfully make any false or fraudulent statement or representation in or with reference to any application for membership or for the purpose of obtaining money or any benefit from any burial association transacting business under this Article, or who shall make any false financial statement to the Burial Association Administrator or to the Burial Association Commission or to the membership of the burial association of which such person is an officer or employee shall be guilty of a misdemeanor and shall be fined or imprisoned in the discretion of the court.

"§ 58-237. *Statewide organization of associations.*—It shall be lawful for the several mutual burial associations of the State of North Carolina, in good standing, to organize and provide for a statewide organization of mutual burial associations, which organization shall be for the mutual and general suggestive control of mutual burial associations in the State of North Carolina. Such organization shall be known as the North Carolina Burial Association, Incorporated, and shall be composed of members who are lawfully operating burial associations in this State and who pay their dues to such association.

"§ 58-238. *This Article deemed exclusive authority for organization, etc., of mutual burial associations.*—This Article shall be deemed and held exclusive authority for the organization and operation of mutual burial associations within the State of North Carolina, and such associations shall not be subject to any other laws respecting insurance companies of any class.

"§ 58-239. *Operation of association in violation of law prohibited.*—No person, firm or corporation shall operate as a burial association in this State unless incorporated under the laws of the State of North Carolina and unless such association shall be operated in compliance with all the provisions of this Article, and unless such association shall be licensed and approved by the North Carolina Mutual Burial Association Commission.

"§ 58-240. *Member in armed forces failing to pay assessments; reinstatement.*—If a member of a burial association who is in the military or naval forces of the United States fails to pay any assessment, he shall be in bad standing, and unless and until restored, shall not be entitled to benefits. However, the said member shall be reinstated in the burial association upon application made by him at any time until 12 months after his discharge from the military or naval forces of the United States, notwithstanding his physical condition and without the payment of assessments which have become due during his service in the military or naval forces of the United States. Benefits will be in force immediately after such reinstatement.

"§ 58-241. *Hearing by administrator of dispute over liability for funeral benefits; appeal.*—In case of a disagreement between the representative of a deceased member of any burial association and such deceased member's burial

association a hearing may be held by the Burial Association Administrator, on request of either party, to determine whether the association is liable for the benefits set forth in the policy issued to the said deceased member of said burial association. The Burial Association Administrator shall render a decision which shall have the same force and effect as judgments rendered by courts of competent jurisdiction in North Carolina. Either party may appeal from the decision of the Burial Association Administrator. Appeal shall be to the District Court Division of the General Court of Justice in the county in which the burial association is located. The procedure for appeal shall be the same as the appeal procedure set forth in Article 19 of Chapter 7A of the General Statutes of North Carolina regulating appeals from the magistrate to the district court. Upon appeal trial shall be *de novo*.

"§ 58-242. *Administrator authorized to subpoena witnesses, administer oaths and compel attendance at hearings.*—For the purpose of holding hearings the Burial Association Administrator shall have power to subpoena witnesses, administer oaths, and compel attendance of witnesses and parties."

Sec. 2. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 25th day of June, 1975.

H. B. 1270 **CHAPTER 838**

AN ACT TO RATIFY AND APPROVE THE CREATION OF THE AVERY'S CREEK SANITARY DISTRICT, HERETOFORE CREATED BY THE BOARD OF COMMISSIONERS FOR THE COUNTY OF BUNCOMBE AND THE NORTH CAROLINA STATE BOARD OF HEALTH (NOW THE COMMISSION FOR HEALTH SERVICES) PURSUANT TO ARTICLE 12 OF CHAPTER 130 OF THE GENERAL STATUTES OF NORTH CAROLINA AND PROVIDING FOR THE ELECTION OF THE AVERY'S CREEK SANITARY DISTRICT BOARD.

Whereas, pursuant to Article 12 of Chapter 130 of the General Statutes of North Carolina the Board of Commissioners for the County of Buncombe by resolution of November 22, 1972, and the North Carolina State Board of Health by action of March 22, 1973, created and established the Avery's Creek Sanitary District; and

Whereas, by resolution of May 5, 1973, the Board of Commissioners for the County of Buncombe pursuant to North Carolina General Statute Section 130-126 determined that the Avery's Creek Sanitary District Board should consist of five members with three members to be elected in the 1974 general election and two members to be elected in the 1976 general election for four-year terms and that their successors should be elected in the same manner every four years; and

Whereas, by resolution of May 5, 1973, the Board of Commissioners for the County of Buncombe pursuant to said law appointed five members to the Avery's Creek Sanitary District Board to serve until their successors were elected and qualified for office; and

Whereas, said resolutions provided that the elections for said sanitary district board members be held in even-numbered years; and

Whereas, Articles 23 and 24 of Chapter 163 of the General Statutes of North Carolina provide that elections of sanitary district board members be held in odd-numbered years; and

Whereas, it is the intent of this act to confirm and ratify all proceedings taken in creating the Avery's Creek Sanitary District, in the appointment of the members to the district board; and to provide for the election of the district board members in conformity to the election laws of North Carolina; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. That all the proceedings heretofore taken by the Board of Commissioners for the County of Buncombe and the North Carolina State Board of Health (now Commission for Health Services) under Article 12 of Chapter 130 of the General Statutes of North Carolina creating the Avery's Creek Sanitary District be and the same are hereby in all respects authorized, ratified, approved, and confirmed.

Sec. 2. The said Avery's Creek Sanitary District is hereby incorporated and declared to be a sanitary district with perpetual existence under the name of "Avery's Creek Sanitary District", and may adopt a corporate seal and may sue and be sued, and may purchase, hold, and convey real and personal property, and shall in addition to the powers hereinafter conferred, be clothed with all powers relating to the establishment, regulation, and control of sanitary districts as now conferred on sanitary districts under the laws of North Carolina.

Sec. 3. The territory comprising said sanitary districts, and being the same territory as shown in the proceedings of the Board of Commissioners for the County of Buncombe and the North Carolina State Board of Health (now Commission of Health Services) in creating said district is described as follows:

Situate, lying and being in the Avery's Creek Township, County of Buncombe, and being bounded by the French Broad River, the Buncombe County-Henderson County Boundary, the Blue Ridge Parkway Land, and the Pisgah National Forest of the United States Forest Service Lands, and more particularly described by metes and bounds as follows:

BEGINNING at the point in the middle of the French Broad River at the Buncombe County-Henderson County boundary opposite the mouth of Line Creek; thence up said creek with the Buncombe County-Henderson County boundary and continuing with said boundary to a point in the boundary of the Pisgah National Forest of the United States Forest Service Lands; thence with said Forest boundary to the Blue Ridge Parkway boundary; thence with said Parkway boundary to another portion of said Forest Land; thence with said Forest boundary to a common corner of the United States Forest Lands and property owned by Daniel Boone Council of the Boy Scouts of America, Inc. as recorded in Deed Book 964 at Page 381 in the Register of Deed's Office for Buncombe County, North Carolina; thence continuing with a boundary between the United States Forest Lands and said Daniel Boone Council to a point in the middle of the French Broad River; thence upstream in a Southeasterly direction with the middle of said river to the Buncombe County-Henderson County boundary, being the point and place of BEGINNING.

Sec. 4. The appointment by the Board of Commissioners for the County of Buncombe of W. Jack Parks, James Byrd, Mrs. Janice Williams, Ralph G.

Hill, and James Padgett, as members of the Avery's Creek Sanitary District Board is hereby ratified, approved and confirmed, and that said members of the Avery's Creek Sanitary District shall hold office for a period from the date of their appointment and until the first Monday in December, 1975, when their successors are elected and qualified.

Sec. 5. The Avery's Creek Sanitary District Board shall consist of five members elected from the District for staggered terms of four years as hereinafter provided. The primary and general elections shall be nonpartisan and shall be conducted by the Buncombe County Board of Elections.

Sec. 6. At the time of the primary election to be held in Buncombe County in 1975, there shall be conducted a nonpartisan primary election for the purposes of nominating candidates for the Avery's Creek Sanitary District Board. If no more than 10 candidates file for office, no primary shall be held and the candidates shall be declared nominated for the general election. If more than 10 candidates file for office then the 10 candidates receiving the highest number of votes cast in the primary shall be nominated as candidates in the general election. In the general election, the three candidates receiving the highest number of votes cast shall be declared elected for four-year terms commencing on the first Monday in December, 1975, and expiring on the first Monday in December, 1979. The two candidates receiving the next highest number of votes cast shall be declared elected for two-year terms commencing on the first Monday in December, 1975, and expiring on the first Monday in December, 1977. Thereafter, as their terms expire, their successors shall be elected for four-year terms as herein provided.

In the years that three members to said board are to be elected, if six or less candidates file for office, no primary shall be held, and the candidates shall be declared nominated for the general election. If six or more candidates file for office, then the six candidates receiving the highest number of votes cast in the primary shall be declared nominated for the general election. In the general election, the three candidates receiving the highest number of votes cast shall be declared elected.

In the years that two members to said board are to be elected, if four or less candidates file for office, no primary shall be held, and the candidates shall be declared nominated for the general election. If four or more candidates file for office, then the four candidates receiving the highest number of votes cast in the primary shall be declared nominated for the general election. In the general election, the two candidates receiving the highest number of votes cast shall be declared elected.

If two or more candidates having the greatest number of votes cast, shall have an equal number of votes, the Buncombe County Board of Elections shall determine by lot which shall be nominated in the primary or elected in the general election.

Sec. 7. Vacancies on said board shall be filled until the next general election by the Board of Commissioners for the County of Buncombe, at which time a successor shall be elected for the unexpired term, if any, or for a full four-year term, if appropriate.

Sec. 8. All elections shall be conducted pursuant to Articles 23 and 24, Chapter 163, of the General Statutes of North Carolina except as otherwise provided in this act.

Sec. 9. The members of the Avery's Creek Sanitary District Board shall have all the powers, duties and obligations conferred upon them by Article 12 of Chapter 130 of the General Statutes of North Carolina.

Sec. 10. All actions and contracts entered into by the present Avery's Creek Sanitary District Board on behalf of the Avery's Creek Sanitary District from and after May 9, 1973, shall be and the same are hereby approved, ratified, and confirmed.

Sec. 11. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of June, 1975.

H. B. 1275 CHAPTER 839

AN ACT TO PROVIDE FOR JUDICIAL DETERMINATION OF MINORS AND PERSONS ADJUDICATED NON COMPOS MENTIS ADMITTED TO TREATMENT FACILITIES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 122, Article 4, of the General Statutes as the same appears in the 1974 Cumulative Supplement to the 1974 Replacement Volume 3B of the General Statutes is amended by adding a new section to be designated G.S. 122-56.7 and to read as follows:

"§ 122-56.7. *Judicial determination.*—(a) A hearing shall be held in district court in the county in which the treatment facility is located within 10 days of the day a minor or a person adjudicated non compos mentis is admitted to a treatment facility pursuant to G.S. 122-56.5.

(b) The court shall determine whether

(1) such person is mentally ill or inebriate and

(2) is in need of further treatment at the treatment facility.

(c) The initial hearing and all subsequent proceedings shall be governed by the involuntary commitment procedures of Chapter 122, Article 5A of the General Statutes. Provided that in a case involving an indigent respondent, located at a regional psychiatric facility for the care and treatment of the mentally ill and inebriate, special counsel authorized by G.S. 122-58.12 shall act as his counsel at the initial hearing."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of June, 1975.

H. B. 1277 CHAPTER 840

AN ACT TO AMEND G.S. 66-58(c)(3), RELATING TO BUSINESS OPERATIONS OF CAMPUS STORES AT STATE-SUPPORTED INSTITUTIONS, TO PROVIDE THAT CAMPUS STORES MAY SELL TO OTHER CAMPUS STORES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 66-58(c)(3) as the same appears in the 1974 Cumulative Supplement to Volume 2C of the General Statutes is hereby amended on line 13 by adding the words "to other campus stores" between the word and comma "families," and the word "and".

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of June, 1975.

H. B. 1279 CHAPTER 841

AN ACT TO CORRECT TECHNICAL OR DRAFTING ERROR IN CHAPTER 296, 1975 SESSION LAWS OF NORTH CAROLINA PERTAINING TO RESTRICTED INSTRUCTION PERMIT FEES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 296 of the 1975 Session Laws of North Carolina amending G.S. 20-7(m) is hereby amended by striking the words, "The fee for the issuance of a restricted instruction permit shall be two dollars ($2.00).", appearing at the end of Section 2 in G.S. 20-7(m) as set forth therein.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of June, 1975.

S. B. 250 CHAPTER 842

AN ACT TO AMEND THE WELL CONSTRUCTION ACT, G.S. 87-83 ET SEQ.; THE WATER USE ACT, G.S. 143-215.11 ET SEQ.; THE DAM SAFETY LAW, G.S. 143-215.23 ET SEQ.; AND THE WATER AND AIR QUALITY REPORTING ACT, G.S. 143-215.63 ET SEQ.; AND THE CIVIL PENALTY PROVISIONS OF ARTICLES 21 AND 21B, CHAPTER 143, N.C.G.S. IN ORDER TO PROVIDE ENFORCEMENT AND JUDICIAL REVIEW PROCEDURES SIMILAR TO AND CONSISTENT WITH OTHER PARTS OF ARTICLE 21, CHAPTER 143 OF THE NORTH CAROLINA GENERAL STATUTES ADMINISTERED BY THE ENVIRONMENTAL MANAGEMENT COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 87-95 is amended by rewriting it to read as follows:

"§ 87-95. *Injunctive relief.*—Upon violation of any of the provisions of or any order issued pursuant to this Article, or duly adopted regulation of the Commission implementing the provisions of this Article, the Secretary of the Department of Natural and Economic Resources may, either before or after the institution of proceedings for the collection of the penalty imposed by this Article for such violations, request the Attorney General to institute a civil action in the superior court in the name of the State upon the relation of the Department of Natural and Economic Resources for injunctive relief to restrain the violation or require corrective action, and for such other or further relief in the premises as said court shall deem proper. Neither the institution of the action nor any of the proceedings thereon shall relieve any party to such proceedings from the penalty prescribed by this Article for any violation of same."

Sec. 2. G.S. 143-215.17 is amended by rewriting the catch line to read "*Enforcement procedures.*"; by deleting in the first line of subsection (a) the phrase "Penalties for Violations" by inserting the words "Criminal penalties"; and by rewriting subsection (b) and adding a new subsection (c), both to read as follows:

"(b) Civil penalties.

(1) The Environmental Management Commission may assess a civil penalty of not less than one hundred dollars ($100.00) nor more than two hundred fifty dollars ($250.00) against any person who violates any provisions of, or any order issued pursuant to this Part, or who violates any duly adopted regulations of the Commission implementing the provisions of this Part.

(2) If any action or failure to act for which a penalty may be assessed under this Part is willful, the Commission may assess a penalty not to exceed two hundred fifty dollars ($250.00) per day for each day of violation.

(3) In determining the amount of the penalty the Commission shall consider the degree and extent of harm caused by the violation and the cost of rectifying the damage.

(4) Any person assessed shall be notified of the assessment by registered or certified mail, and the notice shall specify the reasons for the assessment. If the person assessed fails to pay the amount of the assessment to the Department of Natural and Economic Resources within 30 days after receipt of notice, the Commission may request the Attorney General to institute a civil action in the Superior Court of the county or counties in which the person assessed resides or has his or its principal place of business, to recover the amount of the assessment. In any such civil action, the scope of the court's review of the Commission's action (which shall include a review of the amount of the assessment) shall be as provided in G.S. 150A-51.

(c) Injunctive relief. Upon violation of any of the provisions of, or any order issued pursuant to this Part, or duly adopted regulation of the Commission or its predecessor implementing the provisions of this Part, the Secretary of the Department of Natural and Economic Resources may, either before or after the institution of proceedings for the collection of the penalty imposed by this Part for such violations, request the Attorney General to institute a civil action in the Superior Court of the county or counties where the violation occurred in the name of the State upon the relation of the Department of Natural and Economic Resources for injunctive relief to restrain the violation or require corrective action, and for such other or further relief in the premises as said court shall deem proper. Neither the institution of the action nor any of the proceedings thereon shall relieve any party to such proceedings from the penalty prescribed by this Part for any violation of same."

Sec. 3. G.S. 143-215.36 is amended by rewriting the catch line to read "*Enforcement procedures.*"; by deleting in the first line of subsection (a) the words "Penalties for Violations" and inserting the words "Criminal penalties"; and by rewriting subsection (b) and adding a subsection (c), both to read as follows:

"(b) Civil penalties.

(1) The Environmental Management Commission may assess a civil penalty of not less than one hundred dollars ($100.00) nor more than two hundred fifty dollars ($250.00) against any person who violates any provisions of, or any order issued pursuant to this Part, or who violates any duly adopted regulation of the Commission or its predecessor implementing the provisions of this Part.

(2) If any action or failure to act for which a penalty may be assessed under this Part is willful, the Commission may assess a penalty not to exceed two hundred fifty dollars ($250.00) per day for each day of violation.

(3) In determining the amount of the penalty, the Commission shall consider the degree and extent of harm caused by the violation and the cost of rectifying the damage.

(4) Any person assessed shall be notified of the assessment by registered or certified mail, and the notice shall specify the reasons for the assessment. If the person assessed fails to pay the amount of the assessment to the Department of Natural and Economic Resources within 30 days after receipt of notice, the Commission may request the Attorney General to institute a civil action in the Superior Court of the county or counties in which the person assessed resides or has his or its principal place of business, to recover the amount of the assessment. In any such civil action, the scope of the court's review of the Commission's action (which shall include a review of the amount of the assessment) shall be as provided in G.S. 150A-51.

(c) Injunctive relief. Upon violation of any of the provisions of, or any order issued pursuant to this Part, or duly adopted regulation of the Commission or its predecessor implementing the provisions of this Part, the Secretary of the Department of Natural and Economic Resources may, either before or after the institution of proceedings for the collection of the penalty imposed by this Part for such violations, request the Attorney General to institute a civil action in the Superior Court of the county or counties where the violation occurred in the name of the State upon the relation of the Department of Natural and Economic Resources for injunctive relief to restrain the violation or require corrective action, and for such other or further relief in the premises as said court shall deem proper. Neither the institution of the action nor any of the proceedings thereon shall relieve any party to such proceedings from the penalty prescribed by this Part for any violation of the same."

Sec. 4. G.S. 143-215.33 is amended by renumbering it to read G.S. 143-215.33(b) and by adding a new subsection G.S. 143-215.33(a) to read as follows:

"§ 143-215.33. *Judicial review.*—(a) Any person against whom a final order or decision has been entered by a hearing officer pursuant to G.S. 143-215.23 et seq., shall be entitled to a review of the order or decision by the full Commission upon written demand by such person within 10 days following notice of the order or decision given by registered or certified mail. The Commission shall review the order or decision, the transcript of evidence and exhibits submitted at hearing, and other pertinent matters, and, if good ground be shown therefor, shall reconsider the evidence, receive further evidence, rehear the parties or their representatives, and affirm, modify, or vacate the order or decision. If the order or decision was entered pursuant to a hearing conducted by a member or members of the Commission, such member or members shall be disqualified from sitting in review of the order or decision. A majority of the members of the Commission shall constitute the full Commission on review."

Sec. 5. G.S. 143-215.69 is amended by rewriting the catch phrase to read "*Enforcement procedures.*"; by inserting the words "Criminal penalties." in line 1 of the present paragraph and renumbering it as subparagraph (a); and by adding new subsections (b), (c) and (d), to read as follows:

"(b) Civil penalties. The Environmental Management Commission may assess civil penalties as provided in G.S. 143-215.6 and G.S. 143-215.114.

(c) Injunctive relief. Upon violation of any of the provisions of, or any order issued pursuant to this Part, or duly adopted regulation of the Commission or its

predecessor implementing the provisions of this Part, the Secretary of the Department of Natural and Economic Resources may, either before or after the institution of proceedings for the collection of the penalty imposed by this Part for such violations, request the Attorney General to institute a civil action in the Superior Court of the county or counties where the violation occurred in the name of the State upon the relation of the Department of Natural and Economic Resources for injunctive relief to restrain the violation or require corrective action, and for such other or further relief in the premises as said court shall deem proper. Neither the institution of the action nor any of the proceedings thereon shall relieve any party to such proceedings from the penalty prescribed by this Part for any violation of same.

(d) Judicial review. Appeal from a final order or decision of a hearing officer or the Commission shall be as provided in G.S. 143-215.5."

Sec. 6. G.S. 143-215.6(a) and G.S. 143-215.114(a) are hereby amended by renumbering paragraph (3) of each subsection as paragraph (4), and by inserting before each said paragraph a new paragraph (3) to read as follows:

"(3) In determining the amount of the penalty the Commission shall consider the degree and extent of harm caused by the violation and the cost of rectifying the damage."

Sec. 7. Line 8 of G.S. 143-215.6(b)(1) is hereby amended by striking "twenty-five thousand dollars ($25,000) per day of violation" and substituting therefor "fifteen thousand dollars ($15,000) per day of violation, provided that such fine shall not exceed a cumulative total of two hundred thousand dollars ($200,000) for each period of thirty (30) days during which a violation continues". Lines 7 and 8 of G.S. 143-215.114(b)(1) are amended by striking "twenty-five thousand dollars ($25,000) per day of violation", and substituting therefor "fifteen thousand dollars ($15,000) per day of violation, provided that such fine shall not exceed a cumulative total of two hundred thousand dollars ($200,000) for each period of thirty (30) days during which a violation continues".

Sec. 8. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of June, 1975.

S. B. 513 **CHAPTER 843**

AN ACT TO REWRITE THE LAW RELATING TO KIDNAPPING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-39 is rewritten to read as follows:

"§ 14-39. *Kidnapping.*—(a) Any person who shall unlawfully confine, restrain, or remove from one place to another, any other person 16 years of age or over without the consent of such person, or any other person under the age of 16 years without the consent of a parent or legal custodian of such person, shall be guilty of kidnapping if such confinement, restraint or removal is for the purpose of:

(1) holding such other person for ransom or as a hostage or using such other person as a shield; or

(2) facilitating the commission of any felony or facilitating flight of any person following the commission of a felony; or

(3) doing serious bodily harm to or terrorizing the person so confined,

restrained or removed or any other person.

(b) Any person convicted of kidnapping shall be guilty of a felony and shall be punished by imprisonment for not less than 25 years nor more than life. If the person kidnapped, as defined in subsection (a), was released by the defendant in a safe place and had not been sexually assaulted or seriously injured, the person so convicted shall be punished by imprisonment for not more than 25 years, or by a fine of not more than ten thousand dollars ($10,000), or both, in the discretion of the court.

(c) Any firm or corporation convicted of kidnapping shall be punished by a fine of not less than five thousand dollars ($5,000) nor more than one hundred thousand dollars ($100,000), and its charter and right to do business in the State of North Carolina shall be forfeited."

Sec. 2. This act shall become effective on July 1, 1975, and shall apply only to offenses committed after that date. It shall not be construed to repeal or amend the law of this State now in effect with reference to trial, conviction, sentence or punishment of any person for the crime of kidnapping committed prior to July 1, 1975.

In the General Assembly read three times and ratified, this the 25th day of June, 1975.

S. B. 514 CHAPTER 844

AN ACT TO PROVIDE THAT THE PRIMARY ELECTION SHALL BE HELD IN AUGUST AND TO MAKE APPROPRIATE CHANGES IN THE ELECTION LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-1(b) is amended by deleting in line 1 the words "on Tuesday next after the first Monday in May", and inserting in lieu thereof the words "on the third Tuesday in August".

Sec. 2. G.S. 163-106(c) is amended by rewriting the first paragraph to read:

"Candidates seeking party primary nominations for the following offices shall file their notice of candidacy with the State Board of Elections no earlier than 12:00 noon on the first Monday in April and no later than 12:00 noon on the last Friday in May preceding the primary:".

And G.S. 163-106(c) is further amended by rewriting the third paragraph to read:

"Candidates seeking party primary nominations for the following offices shall file their notice of candidacy with the county board of elections no earlier than 12:00 noon on the first Monday in April and no later than 12:00 noon on the last Friday in May preceding the primary:".

Sec. 3. G.S. 163-111(c)(1) is amended by rewriting the first paragraph to read:

"An aspirant entitled to demand a second primary for one of the offices listed below, and desiring to do so, shall file a request for a second primary in writing or by telegram with the Executive Secretary-Director of the State Board of Elections by 12:00 noon, on the second day after the result of the first primary has been officially declared:".

Sec. 4. G.S. 163-136(b)(3) is amended by adding at the end thereof a new paragraph to read:

"Provided, that the State Board of Elections, in its discretion, may direct some or all counties to print the ballots required by this subdivision under the supervision of the State Board of Elections. If the State Board of Elections prints and distributes the ballots required by this subdivision at the expense of the State, the State Board shall have the authority to negotiate for the ballots to be printed and distributed on a regional or centralized basis, and the State Board shall be exempt from securing competitive bids for printing and distribution of all ballots, Abstracts and Precinct Return Forms."

Sec. 5. G.S. 163-137(b) is amended by deleting the figure "60" in line 3 and inserting in lieu thereof the figure "30".

Sec. 6. G.S. 163-172 is amended by adding at the end thereof a new paragraph to read:

"Provided, that the State Board of Elections, in its discretion, may direct some or all counties to print the Abstracts and Precinct Return Forms as designed by the State Board and required for any primary or election. If the State Board prints and distributes the Abstracts and Precinct Return Forms required for any primary or election, at the expense of the State, the State Board shall have the authority to negotiate for the Abstracts and Precinct Return Forms to be printed and distributed on a regional or centralized basis, and the State Board shall be exempt from securing competitive bids for printing and distribution."

Sec. 7. G.S. 163-177 is amended by rewriting the first paragraph to read:

"Within six hours after the returns of a primary or election have been canvassed and the results judicially determined, the chairman of the county board of elections shall mail, or otherwise deliver, to the State Board of Elections the duplicate-original abstracts prepared in accordance with G.S. 163-176 for all offices and referenda for which the State Board of Elections is required to canvass the votes and declare the results including:".

Sec. 8. Article 15 of Chapter 163 of the General Statutes is amended by adding a new section immediately after G.S. 163-177 to read as follows:

"§ 163-177.1. *Responsibility of chairman.*—The chairman of the county board of elections shall be responsible for prompt delivery of the Abstracts required in G.S. 163-177 to the State Board of Elections. If the chairman of the county board of elections is notified by the State Board, by telephone or otherwise, that the abstracts from his county have not been received and therefore the state canvass cannot proceed, then the chairman of the county board shall deliver immediately, or have delivered, the office copy of all Abstracts due.

The North Carolina State Highway Patrol, in cooperation with the State Board of Elections and county boards of elections, may, upon request, be responsible for the delivery of the Abstracts from each county to the office of the State Board of Elections."

Sec. 9. G.S. 163-181 is rewritten to read:

"§ 163-181. *Election contest stays certification of election.*—(a) If an election contest is properly pending before a county board of elections or on appeal from a county board to the State Board of Elections, after a general election, the chairman of the county board of elections shall not issue a certificate of election for the office in controversy until the contest has been finally decided by the county or State Board of Elections.

(b) No election protest shall be filed by a candidate involved in a county, district or statewide primary election with the county or State Board of Elections. The candidate shall file his protest with the Superior Court of Wake County with respect to a statewide primary election, and with the superior court of the county of the candidate's residence in other primary elections, not later than five days after the board of elections certifies the nominee for the office involved in the protest. Filing of the protest shall not stay the certification of the nominee by the board of elections. A resident superior court judge or a superior court judge then presiding in the county shall immediately hear the protest without a jury. If the court finds that the nominee certified by the Board of Elections should not be certified, the court shall issue an order directing the county or State Board of Elections what action should be taken."

Sec. 10. G.S. 163-188 is amended by rewriting the last sentence of the first paragraph to read:

"The time and date of the primary canvass shall be fixed by the State Board, but in no event shall the canvass be later than the eighth day after the primary election and the State Board shall accept and record the totals reflected on the Abstracts received from the counties and it shall be the responsibility of each county to accurately record the correct totals for each office."

Sec. 11. G.S. 163-227 is hereby amended by deleting "60 days" wherever it appears therein, and inserting in lieu thereof "30 days".

Sec. 12. G.S. 163-227.2(b) is amended by deleting the figure "60" in line 1 thereof and inserting in lieu thereof the figure "30".

Sec. 13. G.S. 163-229 is amended by deleting the figure "60" wherever it appears therein and inserting in lieu thereof the figure "30".

Sec. 14. G.S. 163-230(2)a. is amended by deleting the figure "60" in line 2 and inserting in lieu thereof the figure "30".

Sec. 15. G.S. 163-248(b) is hereby amended by rewriting the second sentence thereof to read:

"The State Board of Elections and the county boards of elections shall have all necessary absentee ballots printed and in the hands of the proper election officials not later than 30 days before the primary or election."

Sec. 16. G.S. 163-248(c) is amended by rewriting the second sentence thereof to read as follows:

"The container-return envelopes shall be printed and available for use not later than 30 days before the primary or election."

Sec. 17. G.S. 163-248(d) is amended by rewriting the second sentence thereof to read:

"The instruction sheets shall be printed and available for use not later than 30 days before the primary or election."

Sec. 18. G.S. 163-213.2 is rewritten in its entirety as follows:

"§ 163-213.2. *Presidential primary, date of election.*—Beginning with the fourth Tuesday in March, 1976, and every four years thereafter, the voters of this State shall be given an opportunity to express their preference for the person to be the presidential candidate of their political party."

Sec. 19. G.S. 163-230(2)a. is amended by adding the word "fifth," before the word "third".

Sec. 20. The respective boards of county commissioners shall appropriate reasonable emergency funds necessary to implement the provisions of this act.

Sec. 21. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of June, 1975.

S. B. 656 **CHAPTER 845**

AN ACT TO PROVIDE GASOLINE TAX REFUNDS TO "SHELTERED WORKSHOPS" RECOGNIZED AND APPROVED BY THE DEPARTMENT OF HUMAN RESOURCES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-446.1 is hereby rewritten in its entirety, to read as follows:

"§ 105-446.1. *Refunds of taxes paid by counties and municipalities.*—The following entities shall be entitled to be reimbursed at the rate of eight cents (8¢) per gallon of the tax levied by G.S. 105-434 upon filing a statement in writing with the Secretary of Revenue, which statement shall be made upon the oath or affirmation of the chief executive officer of said entity, showing the number of gallons of fuel purchased and used by said entity on which the tax levied by G.S. 105-434 has been paid: the Board of Transportation, counties, municipal corporations, volunteer fire departments, county fire departments, and 'sheltered workshop' organizations recognized and approved by the Department of Human Resources. 'Chief executive officer' shall mean the Director of Highways, the mayor, city manager or other municipal officer designated by the governing body of the municipality, the chairman of the board of county commissioners or other county officer designated by the board of county commissioners, or the president or other duly designated officer or agent of a volunteer fire department, county fire department or 'sheltered workshop' organization. All claims for refunds for tax or taxes for motor fuels under the provisions of this section shall be filed with the Secretary of Revenue on forms to be prescribed by him on or before the last day of January, April, July and October of each year, and shall cover only the motor fuels so used during the quarterly period immediately preceding the month in which such application is filed. Refunds made pursuant to claims filed after the dates above specified shall be subject to the following late filing penalties: claims filed within 30 days after said dates, twenty-five percent (25%); claims filed after 30 days but within six months after said dates, fifty percent (50%); but refunds claimed after six months following said dates shall be barred."

Sec. 2. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 25th day of June, 1975.

S. B. 881 **CHAPTER 846**

AN ACT TO PROVIDE FOR MANDATORY ACTIVE IMPRISONMENT SENTENCES UPON CONVICTION FOR A SECOND OR SUBSEQUENT OFFENSE VIOLATION OF G.S. 14-87(a).

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-87, as presently written, shall be designated subsection (a), and a new subsection added, to be designated subsection (b), to read as follows:

"(b) Any person who has been previously convicted of a violation of G.S. 14-87(a), or any person who has been previously convicted of a violation of any similar statute in any other State or the District of Columbia, upon conviction for a second or subsequent violation of G.S. 14-87(a), shall be guilty of a felony and shall be punished without benefit of parole, probation, suspended sentence, or any other judicial or administrative procedure except such time as may be allowed as a result of good behavior, whereby the period of actual incarceration of the person sentenced is reduced to a period less than that stated in the sentence imposed by the trial judge. Sentences imposed for a second or subsequent violation pursuant to this proviso shall run consecutively with and shall commence at the expiration of any other sentences being served by the person sentenced hereunder.

Notwithstanding any other provision of law, neither the Parole Commission nor any other agency having responsibility for release of inmates prior to expiration of sentences shall authorize an inmate serving a sentence imposed pursuant to the foregoing proviso of this section to be released prior to expiration of the sentence imposed for a second or subsequent violation of G.S. 14-87(a).

For purposes of determining whether a violation of G.S. 14-87(a) is a second or subsequent violation of G.S. 14-87(a) for sentencing under the foregoing proviso, any previous conviction for violation of G.S. 14-87(a) shall be considered a previous conviction if convicted before the date of the second or subsequent violation sought to be punished by a sentence under the foregoing proviso."

Sec. 2. This act shall become effective October 1, 1975.

In the General Assembly read three times and ratified, this the 25th day of June, 1975.

S. B. 916 **CHAPTER 847**

AN ACT TO ALLOW COMPENSATION FOR THE TAKING OF WATER AND SEWER FACILITIES BY POLITICAL SUBDIVISIONS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 40 of the General Statutes is amended by adding a new Section 40-30 reading as follows:

"§ 40-30. *Compensation for taking of water and sewer facilities by political subdivisions.*—Upon the filing of a petition or complaint in inverse condemnation by a privately owned public utility certificated by the North Carolina Utilities Commission to provide water or sewer service, or both, alleging that a political subdivision of the State has constructed or installed, or threatens to construct or install, duplicating facilities for providing services

similar to those provided by said public utility, or upon the filing of a petition by a political subdivision to condemn property and facilities of such a public utility, then the court shall, upon finding (1) that the facilities of the complainant public utility are of such an age, quality of materials, and size of facilities to be readily integrated into the system of said political subdivision, and (2) that said political subdivision has in effect in the area served by said complainant public utility an ordinance requiring connection of all developed properties to its system, declare the action or threatened action of the political subdivision to be a taking of property for a public use, and shall fix just compensation therefor.

The compensation fixed by a court pursuant to this section shall not exceed the actual original dollar cost of the property of the public utility, less accumulated depreciation using a straight-line method of depreciation. In diminution of said actual original dollar cost, less accumulated depreciation, the court shall consider the following factors in fixing just compensation:

1. The useful value of the property to the political subdivision, considering its age, quality of materials, and degree of compatibility with the system of the political subdivision;

2. The amounts of any tap fees, connection fees, or any other payments to defray the cost of construction of the public utility system, if paid by any person other than the public utility or its predecessors in title;

3. Any inadequacy of consideration paid for, or any gift of, property for which compensation is sought;

4. The reasonable salvage value of property which the public utility has salvaged or which can reasonably be salvaged by the public utility.

Certified copies of pertinent records of the North Carolina Utilities Commission shall be made available to the court upon request in order to aid the court in determining just compensation pursuant to this section."

Sec. 2. This act shall become effective on January 1, 1976.

In the General Assembly read three times and ratified, this the 25th day of June, 1975.

H. B. 888 CHAPTER 848

AN ACT TO EXEMPT PROPERTY OF RELIGIOUS ORGANIZATIONS WHICH IS MADE AVAILABLE AS A RESIDENCE FOR CUSTODIANS AND CARETAKERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-278.3(d)(1) as the same appears in 1972 Volume 2D to the General Statutes is hereby amended by adding the following sentence at the end thereof:

"Provided, however, that where part of property which otherwise qualifies for the exemption provided herein is made available as a residence for an individual who provides guardian, janitorial and custodial services for such property, or who oversees and supervises qualifying activities upon and in connection with said property, the entire property shall be considered as wholly and exclusively used for a religious purpose."

Sec. 2. This act shall become effective January 1, 1976.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

S. B. 939 **CHAPTER 849**

AN ACT TO AMEND G.S. 153A-302 RELATING TO THE EFFECTIVE DATE OF RESOLUTIONS DEFINING SERVICE DISTRICTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153A-302(d) is amended by adding at the end thereof the following:

"Provided that any resolution adopted before August 1, 1975, may be effective as of July 1, 1975, if such resolution so provides."

Sec. 2. This act shall become effective upon ratification, and shall expire on October 1, 1975, but such expiration shall not affect the validity of any service district established pursuant to this act.

In the General Assembly read three times and ratified, this the 25th day of June, 1975.

S. B. 947 **CHAPTER 850**

AN ACT TO AMEND CHAPTER 553, 1975 SESSION LAWS TO CORRECT A TYPOGRAPHICAL ERROR.

The General Assembly of North Carolina enacts:

Section 1. Chapter 553, 1975 Session Laws of North Carolina is hereby amended in Section 1 thereof on line 11 of the new subsection (e) in ratified bill by inserting after the word and comma, "terminal," and before the word "establishment", the words "and the".

Sec. 2. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 25th day of June, 1975.

H. B. 296 **CHAPTER 851**

AN ACT TO DIRECT THE LEGISLATIVE RESEARCH COMMISSION TO STUDY VARIOUS MATTERS.

The General Assembly of North Carolina enacts:

Section 1. The Legislative Research Commission is directed to study the following issues, designing the individual study efforts as described in the other sections of this act:

(1) Services for the blind (H. 296);
(2) The office of magistrate (H. 720);
(3) Land records information systems (H. 785);
(4) North Carolina laws on sex discrimination (H. 845, S. 668);
(5) Problems in foreclosure law (H. 893);
(6) Fire and casualty insurance rate regulation (H. 1214);
(7) State licensing boards (H. 1223);
(8) Need for compensation of victims of crimes (H. 1202);
(9) Means to increase the level of professionalism and efficiency of local building inspectors (S. 325);
(10) The effect of the tax-exempt status of State-owned property upon local government revenue (S. 765); and
(11) The possibility of State operation of a fisheries training vessel program (S. 855);

(12) Emergency Medical Care and Services;
(13) The operation of the North Carolina Department of Correction's Prison Enterprises Division (H. 1265, S. 806);
(14) Programs available to females committed to the Department of Correction (H. 20, S. 24);
(15) The need for an actuarial services division within the Department of State Treasurer (H. 331);
(16) The feasibility of using inmate labor in Department of Correction construction (S. 606);
(17) The problems of the hearing aid business (S. 630);
(18) The relationship between the Division of Community Colleges and the State Department of Public Instruction (S. 909);
(19) The problem of sexual assaults in North Carolina (H. 816); and
(20) The funding, benefits, and operations of the Retirement System (H. 994).

Sec. 2. In its study of services for the blind the Legislative Research Commission shall inquire into the responsibilities for services to the blind of North Carolina, and the current operating practices of the North Carolina Department of Human Resources and North Carolina Library for the Blind and Physically Handicapped. The study shall embrace: (1) present services to the blind, (2) ways of achieving greater effectiveness in rendering services, and (3) possible expansion and strengthening quality of services to the blind.

Sec. 2.5. In its study of emergency medical care and services the Legislative Research Commission shall inquire into training, standards, examination, qualifications and other pertinent areas of emergency medical care and services, and a special subcommittee shall be authorized consisting of six persons named by the Speaker of the House of which three shall be members of the House and three shall be public members who are interested in the problem of emergency medical care; and six persons named by the Lt. Governor of which three shall be members of the Senate and three shall be public members who are interested in the problem of emergency medical care.

Sec. 3. In its study of the office of magistrate the Legislative Research Commission shall examine the office of magistrate in North Carolina, including, but not restricted to, the method of appointment, compensation, and criteria by which allocation of magistrates are determined for each county.

Sec. 4. In its study of land records information systems in North Carolina the Legislative Research Commission shall investigate and review the land records information systems of the State and make recommendations concerning ways of modernizing them and making them more uniform. The Legislative Research Commission shall include in its study an inquiry into the following issues: (1) Should there be created a State registrar's office to perform a role with regard to the registers of deeds similar to that performed by the Administrative Officer of the Court with regard to the clerks of superior court. (2) Should the assignment of land parcel identifiers and the creation of land parcel identifier indexes be required. (3) What arrangements can be made to provide automated data processing services to counties that desire them but do not have them available. (4) What should the role of land title registration be in a system of modernized land records. (5) How should the modernization of land records be financed. (6) If a decision is made to establish a system of land records using parcel identifiers, parcel identifier indexes, and computerization,

what statutory revisions must be made to facilitate conversion to this system. (7) In establishing a modernized land records system, what changes need to be made in records that make claims against land but are filed against persons, rather than against particular parcels of land. (8) Should land records and land information, whether stored in a computer, on microfilm, or in books, be available from a single county office. (9) What statutory revisions are needed to improve land records systems exclusive of those necessary to implement a computerized system based upon parcel identifiers. (10) What statutory revisions are needed to increase statewide uniformity of land records systems.

Sec. 5. In its study of sexual discrimination in North Carolina laws and practices the Legislative Research Commission shall examine North Carolina laws and practices, including the General Statutes, case law, customs and regulations of the various branches of State government; the studies shall examine these laws and practices as they relate to a specific sex, as they may deny equality of rights under the laws of this State, and as they might be modified by the possible passage of the Equal Rights Amendment to the Constitution of the United States. The Legislative Research Commission shall also study the desirability of enacting the legislation contained in Senate Bill 813 from the 1975 Session, or the enactment of similar legislation that would establish a fair employment opportunity commission in North Carolina with powers and duties designed to eliminate discrimination based upon race, color, religion, national origin, ancestry, age, or sex.

Sec. 6. In its study of the problems in North Carolina's statutory treatment of foreclosure the Legislative Research Commission shall examine the North Carolina General Statutes and applicable case law concerning: (1) foreclosure of real and personal property, and (2) lien laws and other statutes allowing the taking, sale, or other disposal of property, both real and personal.

Sec. 7. In its study of fire and casualty insurance rate regulation the Legislative Research Commission shall have the responsibility to make a thorough and comprehensive study of all aspects of fire and casualty insurance rate regulation in North Carolina and in other states in the Union. In conducting its studies the Legislative Research Commission shall evaluate and report on the system of prior approval rate making as used in this State and other states and shall compare the effectiveness and rate impact of the practices and procedures utilized in this State as compared with other states. In addition, the Legislative Research Commission shall evaluate and report on the rate impact of other systems of rate making including but not limited to (1) file and use rate making and (2) open competition rate making and (3) rate making utilizing the concept of return on invested capital. The Legislative Research Commission shall further evaluate the advantages and disadvantages of establishing an insurance commission consisting of three or more members with adequate supporting staff which shall be invested with the authority to determine and fix fire and casualty rates for use in North Carolina.

Sec. 8. In its study of State licensing boards the Legislative Research Commission shall:

(1) Look into the present law in North Carolina and compare North Carolina law and practice with that in other states;

(2) Inquire into the proper makeup of licensing boards;

(3) Determine whether there is any misuse of funds by licensing boards;

(4) Determine whether licensing boards are unduly restricting entry into their respective professions; and

(5) Seek information on how to get more people into needed professions.

Sec. 9. In its study of the need for compensation of victims of crimes the Legislative Research Commission shall analyze all problems surrounding the establishment of a plan by which victims of crimes committed within North Carolina might be compensated for the injuries that they sustain. The Legislative Research Commission is specifically directed to study the following areas:

(1) the types of crimes and of injuries for which compensation should be awarded;

(2) the experience of other jurisdictions in administering similar programs, the problems that these jurisdictions have encountered and the cost of such programs;

(3) whether such a program should be administered separately or under the auspices of an existing State department or agency;

(4) the estimated cost of administration of a program and of awarding compensation under it; and

(5) any actual or potential sources of aid either federal or otherwise to help this State defray the costs of such a program.

Sec. 10. In its study of means to increase the level of professionalism and efficiency of local building inspectors the Legislative Research Commission shall include an examination of training opportunities, expanded technical assistance from State agencies, improved compensation, joint organizational arrangements, advisory services, and intergovernmental grant programs.

Sec. 11. In its study of the effect of tax-exempt State-owned property upon local governmental revenue the Legislative Research Commission shall look at the relationship between State and local governments regarding the exemption of State-owned real property from ad valorem taxation, including the nature and extent of acquisition of real property by the State within the last decade, the effect of tax exemption upon local tax revenues, and the cost of local government services that benefit State-owned real property.

Sec. 11.1. In its study of the fisheries training vessel issue the Legislative Research Commission shall have the following responsibilities:

(1) To determine the need for training vessels; to determine the number and kinds of vessels necessary to provide North Carolina's students of vocational fisheries the highest educational, training and experience opportunities; to determine the optimum navigation, safety, propulsion and fishing equipment for each class of vessel, and to make recommendations to the General Assembly and the State Board of Education.

(2) To investigate sources of funding for obtaining and equipping training vessels, and to make recommendations to appropriate agencies that they seek funds.

(3) To establish criteria for dockage, scheduling, maintenance, ownership, insuring, operating and financing for the efficient prosecution of the Vocational Fisheries Program, and to recommend these criteria to the State Board of Education.

(4) To recommend an administrative structure or organization or agency to direct and manage the training vessel program for maximum training opportunities for vocational fisheries students.

(5) To examine the motor pool approach to State-owned vessels where all departments would have access to some use of vessels now under exclusive departmental control.

Sec. 11.2. In its study of programs available to females committed to the Department of Correction the Legislative Research Commission shall evaluate the educational, vocational, and rehabilitative programs available to females committed to the custody of the Department of Correction, and recommend possible improvements and additions to these programs.

Sec. 11.3. In its study of the need for the creation of a Division of Actuarial Services within the Department of the State Treasurer the Legislative Research Commission shall look into the availability, quality, use and costs of the actuarial services furnished by private business to those agencies of the State requiring these services.

Sec. 11.4. In its study of the feasibility of using inmate labor in Department of Correction construction the Legislative Research Commission shall look into either construction of new facilities or conversion or expansion of existing facilities being undertaken to the maximum extent feasible utilizing such inmate labor as may be available and fit for such work, contingent upon the availability of funds. If appropriate, the Commission report shall propose a comprehensive master plan for future construction. If the Commission should determine that construction of campus type facilities using inmate labor would be feasible and beneficial, special attention should be given to the development of an appropriate system to provide inmate incentives which might include:

(1) Review of the incentive wage provisions of G.S. 148-18,

(2) Review of good time credit as provided in G.S. 148-13,

(3) Special work release consideration for exemplary work performance, and

(4) Development of any other rewards or incentives that may seem to be desirable.

Sec. 11.5. In its study of the problems of the hearing aid business the Legislative Research Commission shall look into the manufacture, distribution, sale and repair of hearing aids.

Sec. 11.6. In its study of the relationship between the Division of Community Colleges and the State Department of Public Instruction the Legislative Research Commission shall produce recommended legislation that will clearly define, by statute, the relationship between the Division of Community Colleges and the Department of Public Instruction and suggest any other appropriate adjustments.

Sec. 11.7. In its study of the problem of sexual assaults the Legislative Research Commission shall undertake:

(1) An analysis of statistics of reported rapes and the ultimate disposition of these cases,

(2) An examination of the reasons rape cases are not reported or not prosecuted,

(3) A follow-up study of the long-term impact of the crime upon rape victims, and

(4) An examination of the social and psychological profile of the rapist to aid in the development of appropriate sanctions and programs for rehabilitation.

The Commission shall also review the North Carolina criminal code, examine pertinent court procedures and develop recommendations for revision of those

statutory provisions and procedural policies it deems appropriate. The Commission shall further develop recommendations for implementation and funding for:

(1) Such programs as it finds necessary to train criminal justice, emergency room, crisis intervention center and rape crisis center personnel in appropriate techniques in the investigation and counseling of the rape victim, and

(2) Programs for education of the public in rape prevention.

Sec. 11.8. In its study of the Retirement System the Legislative Research Commission shall look into the many questions that have developed among members of the General Assmebly concerning the financing of the Teachers' and State Employees' Retirement System and the Local Governmental Retirement System, and the Commission shall study the financing, the benefits and the operation of the retirement systems. The Commission shall further examine:

(1) Providing a permanent plan for maintaining the relative adequacy of benefits for retired employees;

(2) A comparison of our benefit structure with those of other jurisdictions; and

(3) A determination of the advisability of combining the administration and actuarial services for all the retirement systems financed in whole or in part by State funds.

Sec. 12. The Co-chairmen of the Legislative Research Commission are authorized to appoint additional members of the General Assembly to study committees to assist the regular members of the Research Commission in conducting these studies, and they are authorized to appoint members of the public to advisory subcommittees. The President Pro Tempore of the Senate shall consult with the President of the Senate when he considers these additional appointments.

Sec. 13. For the purpose of producing the studies directed by this act and other expressions by the General Assembly, one hundred thousand dollars ($100,000) is appropriated for use during the 1975-76 and 1976-77 fiscal years by the Legislative Research Commission. This appropriation shall be in addition to any other appropriation to the use of the Legislative Research Commission, and any amount not expended in the first fiscal year 1975-76 shall be available to the Research Commission in the second year 1976-77.

Sec. 14. In its study of the operation of the North Carolina Department of Correction's Prison Enterprises Division, the Legislative Research Commission shall include an investigation of Prison Enterprises' relationship to privately operated businesses, of the management goals of the Department of Correction in this division, and of the attitudes of private business interest in competition with Prison Enterprises.

Sec. 15. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of June, 1975.

H. B. 659 **CHAPTER 852**

AN ACT TO AMEND G.S. 120-40 TO REQUIRE LOBBYISTS TO PAY A REGISTRATION FEE OF FIFTY DOLLARS ($50.00) FOR EVERY PERSON, CORPORATION OR ASSOCIATION WHICH EMPLOYS THE LOBBYISTS, SUCH FEES TO BE PAYABLE UPON REGISTRATION.

The General Assembly of North Carolina enacts:

Section 1. Every person, corporation or association which employs any person to act as legislative agent as defined by law to promote or oppose in any manner the passage by the General Assembly of any legislation affecting the pecuniary interests of any individual, association or corporation as distinct from those of the whole people of the State, or to act in any manner as a legislative agent in connection with any such legislation, shall pay to the Secretary of State a fee of fifty dollars ($50.00), which fee shall be due and payable by either the employer or the employee at the time of registration.

A separate registration, together with a separate registration fee of fifty dollars ($50.00), shall be required for each person, corporation or association for which a person acts as legislative agent. Fees so collected shall be deposited in the General Fund of the State.

Sec. 2. This act shall become effective on Janaury 1, 1977, and shall apply to any person, corporation or association which employs a legislative agent at every session of the General Assembly convening on or after January 1, 1977.

In the General Assembly read three times and ratified, this the 25th day of June, 1975.

H. B. 1118 **CHAPTER 853**

AN ACT TO PROVIDE A PROCEDURE FOR INDIGENT PERSONS TO FILE FOR PUBLIC OFFICE WITHOUT PAYING A FILING FEE.

The General Assembly of North Carolina enacts:

Section 1. Article 11, Chapter 163 of the General Statutes, is amended by adding at the end thereof the following sections:

"§ 163-123. *Candidates nominated by petition, party primary.*—(a) Any qualified voter who seeks nomination in the party primary of the political party with which he affiliates may, in lieu of payment of any filing fee required for the office he seeks, file a written petition requesting him to be a candidate for a specified office with the appropriate board of elections, State, county or municipal.

(b) If the candidate is seeking the office of United States Senator, Governor, Lieutenant Governor, any State executive officer, Justice of the Supreme Court or Judge of the Court of Appeals, the petition must be signed by 10,000 registered voters who are members of the political party in whose primary the candidate desires to run. The petition must be filed with the State Board of Elections not later than 12:00 noon on Monday preceding the filing deadline before the primary in which he seeks to run. The names on the petition shall be verified by the board of elections of the county where the signer is registered, and the petition must be presented to the county board of elections at least 15 days before the petition is due to be filed with the State Board of Elections. When a proper petition has been filed, the candidate's name shall be printed on the primary ballot.

(c) County, municipal and district primaries. If the candidate is seeking one of the offices set forth in G.S. 163-106(c) but which is not listed in subsection (b) of this section, or a municipal or any other office requiring a partisan primary which is not set forth in G.S. 163-106(c) or (d), he shall file a written petition with the appropriate board of elections no later than 12:00 noon on Monday preceding the filing deadline before the primary. The petition shall be signed by ten percent (10%) of the registered voters of the election area in which the office will be voted for, who are affiliated with the same political party in whose primary the candidate desires to run. The board of elections shall verify the names on the petition, and if the petition is found to be sufficient, the candidate's name shall be printed on the appropriate primary ballot. Petitions for candidates for member of the U.S. House of Representatives, District Attorney, judge of the District Court and judge of the Superior Court, or members of the State House of Representatives from multi-county districts or members of the State Senate from multi-county districts must be presented to the county board of elections for verification at least 15 days before the petition is due to be filed with the State Board of Elections, and such petition must be filed with the State Board of Elections no later than 12:00 noon on Monday preceding the filing deadline. The State Board of Elections may adopt rules to implement this section and to provide standard petition forms.

(d) Non-partisan primaries and elections. Any qualified voter who seeks to be a candidate in any non-partisan primary or election may, in lieu of payment of the filing fee required, file a written petition signed by ten percent (10%) of the registered voters in the election area in which the office will be voted for with the appropriate board of elections. Any qualified voter may sign the petition. The petition shall state the candidate's name, address and the office which he is seeking. The petition must be filed with the appropriate board of elections no later than 60 days prior to the filing deadline for the primary or election, and if found to be sufficient, the candidate's name shall be printed on the ballot."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of June, 1975.

H. B. 1135 CHAPTER 854

AN ACT TO AUTHORIZE THE ISSUANCE OF FORTY-THREE MILLION TWO HUNDRED SIXTY-SEVEN THOUSAND DOLLARS ($43,267,000) OF BONDS OF THE STATE TO PROVIDE FOR CAPITAL IMPROVEMENTS FOR STATE INSTITUTIONS OF HIGHER EDUCATION SUBJECT TO A VOTE OF THE QUALIFIED VOTERS OF THE STATE.

The General Assembly of North Carolina enacts:

Section 1. This act shall be known and may be cited as the "State Institutions of Higher Education Capital Improvement Voted Bond Act of 1975".

Sec. 2. Subject to a favorable vote of a majority of the qualified voters of the State who shall vote in an election called and held as hereinafter provided, the State Treasurer is hereby authorized, by and with the consent of the Council of State, to issue and sell, at one time or from time to time, bonds of the State, to be designated "State Institutions of Higher Education Capital Improvement

Bonds" in an aggregate principal amount not exceeding forty-three million two hundred sixty-seven thousand dollars ($43,267,000), for the purpose of providing funds, with any other funds available therefor, to the University of North Carolina Board of Governors, for needed capital improvements at the State's institutions of higher education, as follows:

1. Western Carolina University			$3,423,000
Building for Administrative Offices and Museum		$3,423,000	
2. Appalachian State University			$3,328,000
Library Book Tower		$3,328,000	
3. Elizabeth City State University			$1,204,000
Addition to Library		$1,204,000	
4. Fayetteville State University			$4,380,000
Science Building		$4,380,000	
5. North Carolina Agricultural and Technical State University			$2,127,000
Social Science Building		$2,127,000	
6. North Carolina State University			$2,705,000
Gardner Hall Addition		$2,705,000	
7. Pembroke State University			$2,335,000
Fine Arts-Home Economics Building		$1,535,000	
Construction—restoration of Old Main	$1,600,000		
Less: Federal funds	$ 800,000	$ 800,000	
8. University of North Carolina at Asheville			$1,900,000
Classroom Building		$1,900,000	
9. University of North Carolina at Chapel Hill			$5,372,000
Physical Education and Intramural Facility		$5,372,000	
10. University of North Carolina at Charlotte			$6,000,000
Classroom—Office Building		$6,000,000	
11. University of North Carolina at Greensboro			$5,153,000
Business and Economics Building		$5,153,000	
12. University of North Carolina at Wilmington			$1,665,000
General Classroom Building		$1,665,000	
13. Winston-Salem State University			$2,175,000
Communications Building		$2,175,000	
14. The University of North Carolina Board of Governors			$1,500,000
University-wide Architectural Barrier Removal and Occupational Safety and Health Act Projects		$1,000,000	
University-wide Land Acquisition		$ 500,000	

Sec. 3. Funds received and disbursed under the provisions of this act shall be expended and disbursed under the direction and supervision of the Director of the Budget.

Each project shall be planned on the basis of an estimated cost that will allow the purchase of all needed fixed equipment and provide drives, walks, grading, and connections to all needed utilities and provide a completed facility that may be fully utilized.

Sec. 4. The funds appropriated by this act shall be disbursed for the purposes provided upon warrants drawn by the State Disbursing Officer, which warrants shall not be drawn until an allotment has been approved by the Director of the Budget, and which allotment shall be approved only after full compliance with the Executive Budget Act, Article I, Chapter 143 of the General Statutes.

Sec. 5. When each project for which an appropriation is made by this act is placed under construction contract, the appropriations therefor shall be encumbered in an amount to cover all costs for construction, design, investigation, administration, movable equipment, and a reasonable contingency. Surplus amounts remaining in the appropriations for each project after encumbering funds for the items described above shall be placed in a project reserve fund credited to the Board of Governors of the University of North Carolina. The use of this project reserve fund shall be at the discretion of the Director of the Budget, with Advisory Budget Commission approval, and upon the request of the Board of Governors of the University of North Carolina, but solely to allow for award of contracts on other projects for which appropriations are made herein where bids exceed the amount of such appropriations, on condition that such projects supplemented shall have been designed within the physical scope intended by the applicable appropriation or any authorized change therein, and all means to award contracts within the appropriation shall have been reasonably attempted in the opinion of the Director of the Budget.

Sec. 6. The institutions of higher education are authorized and empowered to make application to any agency of the United States of America for grants-in-aid for the construction of the several projects in this act, within the scope and intent of the projects as enumerated. The Advisory Budget Commission and the Department of Administration shall be furnished current information on all such requests. Receipt of moneys from such grants or from trusts and gifts shall be deposited with the State Treasurer and expended in accordance with the terms of such gifts or grants which are not contrary to the laws of this State.

Sec. 7. The bonds herein authorized shall bear such date or dates, shall be serial bonds and shall mature at such times and in such amounts, not exceeding 25 years from their date or dates, shall bear interest at such rate or rates, and may be made redeemable, before maturity, at the option of the State, at such price or prices and under such terms and conditions, as may be fixed by the State Treasurer with the approval of the Council of State.

Sec. 8. The bonds issued pursuant to this act shall be signed on behalf of the State of North Carolina by the Governor or shall bear his facsimile signature; shall bear the Great Seal of the State or a facsimile thereof impressed or imprinted thereon; and shall carry interest coupons which shall bear a facsimile of the signature of the State Treasurer. In the event that the bonds

shall bear the facsimile signature of the State Treasurer, the bonds shall also be signed by an assistant treasurer, or a deputy treasurer, as the State Treasurer shall determine. Should any officer whose signature or facsimile appears on any bonds or coupons cease to be such officer before the delivery of the bonds, such signature or facsimile shall nevertheless have the same validity for all purposes as if the officer had remained in office until delivery. The form and denomination of the bonds shall be as the State Treasurer may determine in conformity with this act, and the bonds shall be subject to registration as is now or hereafter may be provided by law for State bonds, and provision may also be made for the reconversion into coupon bonds of any bonds registered as to both principal and interest.

Sec. 9. Subject to determination by the Council of State of the manner in which the bonds shall be offered for sale, whether by publishing notices in certain newspapers and financial journals or by mailing notices or by inviting bids by correspondence or otherwise, the State Treasurer is authorized to sell the bonds at one time or from time to time at the best price obtainable, but in no case for less than par and accrued interest. All expense necessarily incurred in the preparation and sale of the bonds and any bond anticipation notes herein authorized shall be paid from the Contingency and Emergency Fund.

Sec. 10. The proceeds of sale of the bonds and of the bond anticipation notes herein authorized, except the proceeds of bonds the issuance of which has been anticipated by such bond anticipation notes, shall be placed by the State Treasurer in a special fund known as the "State Institutions of Higher Education Capital Improvement Voted Bond Act of 1975 Bond Fund", and shall be disbursed as herein provided.

Sec. 11. By and with consent of the Council of State, who shall determine the rate or rates or maximum rate of interest and the date or approximate date of payment, the State Treasurer is hereby authorized to borrow money at the lowest rate of interest obtainable, and to execute and issue notes of the State for the same, but only in the following circumstances and under the following conditions:

(a) For anticipating the sale of any of said bonds to the issuance of which the Council of State shall have given consent, if the State Treasurer shall deem it advisable to postpone the issuance of such bonds;

(b) For the payment of interest upon or any installment of principal of any said bonds then outstanding, if there shall not be sufficient funds in the State Treasury with which to pay such interest or installment of principal as they respectively fall due;

(c) For the renewal of any loan evidenced by notes herein authorized.

Sec. 12. Funds derived from the sale of bonds herein authorized shall be used in the payment of any bond anticipation notes that may have been issued in anticipation of the sale of such bonds and any renewals of such notes; and funds provided by the General Assembly for the payment of interest on or principal of bonds herein authorized shall be used in paying the interest on or principal of any notes and any renewals thereof the proceeds of which shall have been used in paying interest on or principal of such bonds. Interest payable upon said notes may be evidenced by interest coupons in the State Treasurer's discretion.

Sec. 13. The full faith, credit and taxing power of the State are hereby pledged for the payment of the principal of and the interest on the bonds and notes herein authorized.

Sec. 14. The coupons appertaining to the bonds and notes after maturity shall be receivable in payment of all taxes, debts, dues, licenses, fines and demands of any kind whatsoever due the State.

Sec. 15. All of the bonds and notes and coupons authorized by this act shall be exempt from all State, county and municipal taxation or assessment, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, and the interest on said bonds and notes shall not be subject to taxation as for income, nor shall said bonds or notes or coupons be subject to taxation when constituting a part of the surplus of any bank, trust company or other corporation.

Sec. 16. It shall be lawful for all executors, administrators, guardians and fiduciaries generally, and all sinking fund commissions, to invest any moneys in their hands in said bonds and notes.

Sec. 17. The question of the issuance of the forty-three million two hundred sixty-seven thousand dollar ($43,267,000) State Institutions of Higher Education Capital Improvement Bonds authorized by this act shall be submitted to the qualified voters of the State of North Carolina at the next statewide election, primary or otherwise, but in any event not later than November 2, 1976; provided, that the election herein provided for may be held on the same day as any other State, county, municipal or district election, and any other State, county, municipal or district election may be validly held on the same day as the bond election provided for in this act. Notice of the bond election shall be given by publication at least twice in a newspaper published in each county in the State or having a general circulation therein, and the election and the registration of voters therefor shall be held under and in accordance with the general laws of the State. Absentee ballots shall be authorized in this election. The State Board of Elections shall reimburse the counties of the State for all necessary expenses incurred in holding said election and registration therefor, the same to be paid out of the Contingency and Emergency Fund, unless the payment of such expenses is otherwise expressly provided for. The State Board of Elections shall cause to be printed and distributed the ballots which are to be used in said election, which said ballots shall be substantially in the following form:

"OFFICIAL BALLOT

FORTY-THREE MILLION TWO HUNDRED SIXTY-SEVEN THOUSAND DOLLAR

STATE INSTITUTIONS OF HIGHER EDUCATION

CAPITAL IMPROVEMENT BONDS

Instructions for Marking Ballot

(a) To vote in favor of the issuance of the bonds, make a cross (x) mark in the square opposite the words 'For the issuance of forty-three million two hundred sixty-seven thousand dollar ($43,267,000) State Institutions of Higher Education Capital Improvement Bonds.'

(b) To vote against the issuance of bonds, make a cross (x) mark in the square opposite the words 'Against the issuance of forty-three million two hundred sixty-seven thousand dollar ($43,267,000) State Institutions of Higher Education Capital Improvement Bonds.'

(c) If you tear or deface or wrongly mark this ballot, return it and get another.

☐ For the issuance of forty-three million two hundred sixty-seven thousand dollar ($43,267,000) State Institutions of Higher Education Capital Improvement Bonds.

☐ Against the issuance of forty-three million two hundred sixty-seven thousand dollar ($43,267,000) State Institutions of Higher Education Capital Improvement Bonds.

(Facsimile Signature)
Chairman, State Board of Elections"

Those voting in said election who are in favor of the issuance of said bonds shall vote by making an "x" or check mark in the square opposite the words "For the issuance of forty-three million two hundred sixty-seven thousand dollar ($43,267,000) State Institutions of Higher Education Capital Improvement Bonds."

Those opposed to the issuance of said bonds shall vote by making an "x" or check mark in the square opposite the words "Against the issuance of forty-three million two hundred sixty-seven thousand dollar ($43,267,000) State Institutions of Higher Education Capital Improvement Bonds."

Notwithstanding the foregoing provisions of this section, voting machines may be used in accordance with rules and regulations prescribed by the State Board of Elections.

If a majority of those voting in said election shall vote in favor of the issuance of the bonds, the bonds shall be issued as hereinbefore provided. In the event a majority of those voting in said election shall vote against the issuance of the bonds, the bonds shall not be issued.

The result of the election shall be canvassed and declared as provided by law for the holding of elections for State officers and the result thereof certified by the State Board of Elections to the Secretary of State of North Carolina, in the manner and at the time provided by the general election laws of the State.

Sec. 18. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 19. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of June, 1975.

H. B. 1176 CHAPTER 855

AN ACT TO AMEND G.S. 115-18 RELATIVE TO THE METHOD OF ELECTING MEMBERS OF COUNTY BOARDS OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115-18 is amended by adding the following proviso at the end thereof:

"Provided, that where there are multiple school administrative units located within the county, and unless the county board is responsible for appointing members of the board of education of a city administrative unit located within the county, only those voters who reside within the county school administrative unit boundary lines shall be eligible to vote for members of the county board of education. Where the county board is responsible for appointing

members of the board of education of a city administrative unit located within the county, the voters residing within that city school administrative unit shall be eligible to vote for members of the county board of education."

Sec. 2. For the purpose of this act, no person residing in a city or town or county school administrative unit shall be eligible for election to the board of education of that administrative unit unless such person resides within the boundary lines of that administrative unit.

Sec. 3. The terms of office of the members of boards of education of all school administrative units in this State, who serve at the time the provisions of this act become effective, shall continue until members are elected and qualified as provided in this act unless modified by local legislation.

Sec. 4. Sections 1 and 3 of this act shall become effective upon ratification. Section 2 of this act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 25th day of June, 1975.

H. B. 1250 CHAPTER 856

AN ACT TO REPEAL G.S. 20-135.4(b) AND (c) TO ELIMINATE THE REQUIREMENT THAT BUMPERS ON PRIVATE PASSENGER AUTOMOBILES MEET CERTAIN SPECIFICATIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-135.4(b) and (c) as the same appear in the 1974 Cumulative Supplement to Volume 1C of the General Statutes are hereby repealed in their entirety.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of June, 1975.

H. B. 1259 CHAPTER 857

AN ACT TO AMEND CHAPTER 88 OF THE GENERAL STATUTES TO REQUIRE THE REGISTRATION OF COSMETIC ART SHOPS AND TO REQUIRE THE APPOINTMENT OF A THREE-MEMBER BOARD OF COSMETIC ART.

The General Assembly of North Carolina enacts:

Section 1. G.S. 88-1 is hereby amended by adding the following as the third, fourth and fifth paragraphs:

"On and after February 1, 1976, any person, firm or corporation, before establishing or opening a cosmetic art shop not heretofore licensed by the State Board of Cosmetic Art, shall make application to the board, on forms to be furnished by the board, for a permit to operate a cosmetic art shop. The shop of such applicant shall be inspected and approved by the State Board of Cosmetic Art by an agent designated for such purpose by the board before such cosmetic art shop shall be opened for business. It shall be unlawful to open a new cosmetic art shop for the practice of cosmetology until such shop has been inspected, as heretofore required, and determined by the board to be in compliance with the requirements set forth in this Chapter. Upon the determination by the board that the applicant has complied with the requirements of this Chapter, the board shall issue to such applicant a permit to operate a cosmetic art shop. A fee

of twenty-five dollars ($25.00) shall be paid to the board for the inspection of a cosmetic art shop. Such fee must accompany the application for a permit to operate a cosmetic art shop at the time such application is filed with the board.

All cosmetic art shops in operation as of February 1, 1976, shall be required to make application to the Board of Cosmetic Art, on forms supplied by the board, for a permit to operate. The fee required for such permit shall be three dollars ($3.00) per active booth in said shop.

Thereafter, all permits shall be renewed as of the first day of February of each and every year, and the fee for annual renewal of cosmetic art shop permits shall be as set forth in G.S. 88-21. No permit or certificate shall be transferable. Each cosmetic art shop permit shall be conspicuously posted within such cosmetic art shop for which same is issued."

Sec. 2. G.S. 88-13 is hereby amended by deleting the word "five" in the first sentence and substituting in lieu therefor the word "three" and by adding the following sentence to the end of the first paragraph:

"Certification is required of each person prior to his appointment to the board."

The second paragraph is hereby amended by deleting the first sentence of the second paragraph and adding the following:

"On July 1, 1977, the Governor shall appoint three members for a term of three years. The Governor, at his option, may remove any member for good cause shown and appoint members to fill unexpired terms."

Sec. 3. G.S. 88-14 is amended by inserting the following words at the beginning of the second sentence:

"The board shall operate under its present structure and composure until July 1, 1977, and thereafter".

Sec. 4. G.S. 88-15 is hereby amended by rewriting the first paragraph to read as follows:

"Each member of the Board of Cosmetic Art Examiners shall receive compensation for his services and expenses as provided in G.S. 93B-5 but shall be limited to payment for services deemed to be official business of the board. Official business of the board deemed to be official business of the board shall include meetings called by the chairman, supervision or administering of examinations, or investigations or inspections made subject to the regulations cited in the following paragraph. No board member shall be authorized to attend trade shows or to travel out of the State and no per diem or travel expenses shall be paid for such travel unless said board member is an officer of the organization holding such meeting."

G.S. 88-15 is further amended by inserting at the end of the fourth sentence of paragraph 2 the following:

"No member of the board shall exercise this authority on a routine basis but shall do so at the direction of either the board, the chairman, the executive secretary or the inspector assigned to the territory, such direction to be governed by a complaint or problem registered with the Board of Cosmetic Art office or when an inspector deems it necessary to call in a board member. Reimbursement for per diem and travel is subject to these provisions. Prior to reimbursement, the requesting board member must submit a detailed written report to the Board of Cosmetic Art office for the official file."

Sec. 5. G.S. 88-17 is hereby amended on line 20 by deleting the comma following the word "Examiners," inserting in lieu thereof a period, and by

deleting the remainder of the paragraph and substituting in lieu thereof the following:

"Examinations held in post-secondary educational institutions shall be supervised by not more than one member of the Board of Cosmetic Art and shall be administered by teachers or instructors, other than board members, who are qualified and approved by the board. Examinations held in Raleigh shall be administered by the minimum number of board members required to conduct such examinations and the chairman of the board is authorized and empowered to make the decision, based on the number of applicants scheduled for examination, and to appoint such board members to conduct the scheduled examinations. The chairman of the board is hereby authorized and empowered to call a meeting of said board whenever necessary, said meetings to be in addition to the quarterly meetings hereinbefore provided for. No payment for per diem or travel expenses shall be authorized or paid for board meetings other than those called by the chairman of the board."

Sec. 6. G.S. 88-21 is hereby amended by inserting the following on line 13 after the sentence ending "every year.":

"All cosmetic art shops in operation shall pay an annual fee of three dollars ($3.00) for each active booth on or before February first, if paid before it becomes delinquent, and if renewed after the same becomes delinquent, there shall be charged a penalty of ten dollars ($10.00) in addition to the regular permit fee. The fee for registration of an expired permit of a cosmetic art shop shall be twenty-five dollars ($25.00)."

Sec. 7. G.S. 88-25 is hereby amended by the addition of a second paragraph as follows:

"Every cosmetic art shop, which continues to operate, shall annually, on or before February 1, of each year renew its permit to operate, and any permit that has not been renewed before or during the month of February in any year shall expire on the first day of March in that year. A cosmetic art shop whose permit has expired may have its permit restored immediately upon payment of restoration fee, as required in G.S. 88-21, in addition to the renewal fee."

Sec. 8. G.S. 88-28 is hereby amended by deletion of the first paragraph and insertion of the following in lieu thereof:

"Each of the following constitutes a misdemeanor punishable upon conviction by a fine of not less than twenty-five dollars ($25.00) and not more than one hundred dollars ($100.00), or up to 30 days in jail, or both."

Sec. 9. G.S. 88-23 is hereby amended by the addition of the two following paragraphs:

"The Board of Cosmetic Art shall not hereafter be authorized to grant Teacher's or Instructor's Certificates to board members during their term of appointment on said board. Teacher's or Instructor's Certificates granted to members by official action of the board, without prior examination, shall be rescinded upon such member's termination from the Board of Cosmetic Art.

Any person appointed to the Board of Cosmetic Art shall be prohibited from being employed by the board for a period of one year after that person's term of appointment expires, whether or not that person served his whole term."

Sec. 10. G.S. 88-28.1 is hereby amended by insertion of a comma after the word "cosmetologist" on line 3, and by the addition of the words and punctuation "cosmetic art shop,".

Sec. 11. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 25th day of June, 1975.

H. B. 1264 **CHAPTER 858**

AN ACT TO ESTABLISH FINANCING AUTHORITY FOR A PARKING DECK WITHIN THE STATE GOVERNMENT COMPLEX.

The General Assembly of North Carolina enacts:

Section 1. Short title. This act shall be known and may be cited as the North Carolina Parking Facilities Revenue Bond Act.

Sec. 2. Purpose. The purpose of this act is to authorize the financing of off-street parking facilities within the State government complex in order to provide parking facilities for the public, including, without limitation, visitors to State offices and State employees.

Sec. 3. Definitions. As used in this section the pertinent terms are defined as follows:

(1) "Secretary" shall mean the Secretary of the North Carolina Department of Administration.

(2) "State Treasurer" shall mean the Treasurer of the State of North Carolina.

(3) "Project" shall mean any facility or facilities within the boundaries of the State government complex to be operated by or on behalf of the Department of Administration for the parking and/or storage of vehicles and, without limitation, shall include all real and personal property, driveways, roads, approaches, structures, garages, meters, mechanical equipment and all appurtenances and facilities, either at, above, or below ground level, which are used or usable in connection with such parking and/or storage of such vehicles.

(4) "Cost" shall mean and include: all costs related to the design; construction with reasonable contingency; acquisition of all property, demolition or relocation of any on-site structures; fixed and movable equipment; finance charges; interest prior to and during construction, and, if deemed advisable by the secretary, for a period not exceeding one year after completion of such construction; reserves for debt service; administrative expenses for the sale of bonds; and, such other expenses as may be necessary or incident to the construction of the project and the financing of such construction, including the reimbursement of any monies advanced by the State for the payment of any of the above mentioned project costs.

(5) "Revenues" shall mean and include all or any part of the fees, rents, charges and other income derived from and/or in connection with the operation and/or ownership of this project or any other State parking facility within the State government complex.

Sec. 4. General grant of powers. The Secretary of the Department of Administration is authorized, subject to the requirements of this act:

(1) to acquire property for and construct the project within the limitation of authorization herein defined and to operate the project or enter into contracts for the management, lease, use, or operation of the project or any portion thereof;

(2) to issue revenue bonds and bond anticipation notes as herein provided to pay the cost of the project in whole or in part, and to fund or refund the same;

(3) to fix, revise, charge, and collect fees, rents and charges for the use of and for the services and facilities furnished by the project any portion thereof;

(4) to establish and enforce rules and regulations for the use of and for the services and facilities furnished by the project or any portion thereof;

(5) to acquire, hold, lease and dispose of real and personal property in the exercise of his powers and the performance of his duties hereunder and to lease the project or any portion thereof for such period or periods of years, not exceeding 40 years in total, upon such terms and conditions as the Council of State may determine;

(6) to employ consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers and such other employees and agents as may be necessary in his judgment in connection with the financing, construction and operation of the project; and to fix their compensation where required;

(7) to make and enter into all contracts and agreements necessary or incidental to the performance of his duties and the execution of his powers under this act;

(8) to receive and accept from any federal, state, or other public agency or agencies or from any private agency or agencies, donations, loans, grants, or contributions of property, labor or other things of value, to be held, used and applied only for such aspects of the project for which such donations, loans, grants, or contributions may be made;

(9) to carry insurance on the project from the North Carolina State Property Fire Insurance Fund in such amounts and covering such risks as the Commissioner of Insurance may deem advisable;

(10) to do all acts and things necessary or convenient to carry out the powers expressly granted by this act.

Sec. 5. Issuance of revenue bonds. It is the intent of this General Assembly that the total self-liquidating portion of said project not exceed two million dollars ($2,000,000). If upon receipt of bids, the level of authorization is insufficient to award contracts, the Advisory Budget Commission may authorize an increase in scope of the project, in no case to exceed two million three hundred thousand dollars ($2,300,000), if in its opinion, sufficient reasonable attempts to award the contracts through negotiation have been made.

Revenue bonds authorized by this act are to be designated "State of North Carolina Parking Facilities Revenue Bonds" (with appropriate series designation). Said bonds may be issued, at one time or from time to time, not to exceed two million three hundred thousand dollars ($2,300,000) for the purpose of paying all or any part of the cost of the project in excess of any direct appropriation or appropriation by the North Carolina General Assembly. The bonds of each issue shall be dated, shall bear interest at such rate or rates, shall mature at such time or times not exceeding 40 years from their date or dates of issuance and may be made redeemable before maturity, at such price or prices and under such terms and conditions, all as may be fixed by the State Treasurer with the approval of the secretary, subject to review by the Council of State.

The bonds shall be signed on behalf of the State of North Carolina by the Governor or shall bear his facsimile signature; shall be signed by the State Treasurer, or shall bear his facsimile signature, shall bear the Great Seal of the State or a facsimile thereof impressed or imprinted thereon; and shall carry interest coupons which shall bear a facsimile of the signature of the State

Treasurer. In the event that the bonds shall bear the facsimile signature of the State Treasurer, the bonds shall also be signed by an assistant treasurer or a deputy treasurer, as the State Treasurer shall determine. Should any officer whose signature or facsimile signature appears on any bonds or coupons cease to be such officer before the delivery of the bonds, such signature or facsimile shall nevertheless have the same validity for all purposes as if the officer had remained in office until delivery. The form and denomination of the bonds shall be as the State Treasurer may determine in conformity with this act, and the bonds shall be subject to registration as is now or hereafter may be provided by law for State bonds, and provision may also be made for the reconversion into coupon bonds of any bonds registered as to both principal and interest.

Subject to determination by the secretary as to the manner in which the bonds shall be offered for sale, whether by publishing notices in certain newspapers and financial journals or by mailing notices or by inviting bids by correspondence or otherwise, the State Treasurer is authorized to sell the bonds, at either public or private sale, at one time or from time to time at the best price obtainable.

The proceeds of the bonds shall be disbursed in such manner and under such restrictions, if any, as the State Treasurer shall determine, with the approval of the secretary, subject to review by the Council of State.

The order providing for the issuance of the bonds, and any trust agreement securing such bonds, may also contain such limitations upon the issuance of additional revenue bonds as the State Treasurer may deem proper, with the approval of the secretary and the Council of State.

Bonds or bond anticipation notes may be issued under this act and other powers vested in the State Treasurer or the Secretary of the Department of Administration or the Council of State under this act may be exercised without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions, or things which are specifically required by this act.

Sec. 6. Trust agreement. In the discretion of the secretary, subject to approval by the Council of State, any revenue bonds issued under this act may be secured by a trust agreement by and between the secretary, representing the State, and a corporate trustee which may be any trust company or bank having the powers of a trust company within or without the State. Such trust agreement or the order of the secretary providing for the issuance of such bonds may pledge or assign the revenues to be received from or in connection with the operation of the project, but shall convey or mortgage the project or any part thereof. Such trust agreement or order may contain such provisions for protecting and enforcing the rights and remedies of the holders of such bonds as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the secretary in relation to the acquisition, construction, improvement, maintenance, repair and operation of the project, the fees, rents and charges to be fixed and collected, and the custody, safeguarding and application of all monies. It shall be lawful for any bank or trust company incorporated under the laws of the State which may act as depositary of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the secretary. Any such trust agreement or order may set forth the rights and remedies of the holders of the bonds and of the trustee, and may restrict the individual right of action by

such holders. In addition to the foregoing, any such trust agreement or order may contain such other provisions as the secretary or State treasurer may deem reasonable and proper for the security of such holders. Expenses incurred in carrying out the provisions of such trust agreements or order may be treated as a part of the cost of the project for which such bonds are issued or as an expense of operation of the project.

Sec. 7. Revenues. The secretary is hereby authorized to fix, revise, charge, and collect fees, rents, and charges for the use of and for the services and facilities furnished by the project or any portion thereof, on any time basis he deems appropriate and to contract with any person, partnership, association or corporation desiring the use of any part or all thereof, and to fix the terms, conditions, fees, rents, and charges for such use. Such fees, rents, and charges shall be so fixed and adjusted, with relation to other revenues or funds available therefor, as to provide funds at least sufficient, with such other revenues or funds, if any, (1) to pay the cost of maintaining, repairing, and operating the project, (2) to pay the principal of and the interest on such bonds as the same shall become due and payable and (3) to create and maintain reserves for such purposes. Such fees, rents, and charges shall not be subject to supervision or regulation by any municipal corporation, political subdivision, or commission, board, bureau, or agency of the State. A sufficient amount of revenues, except such part thereof as may be necessary to pay such cost of maintenance, repair and operation and to provide such reserves therefor and for renewals, replacements, extensions, enlargements and improvements as may be provided for in the order authorizing the issuance of such bonds or in the trust agreement securing the same, shall be set aside at such regular intervals as may be provided in such order or such trust agreement in a sinking fund which is hereby pledged to, and charged with, the payment of the principal of and the interest on such bonds as the same shall become due and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made; the fees, rents, charges, and other revenues so pledged and thereafter received, on behalf of the secretary shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the secretary, irrespective of whether such parties have notice thereof. Neither the order nor any trust agreement by which a pledge is created need be filed or recorded except in the records of the Secretary and the Council of State. The use and disposition of monies to the credit of such sinking fund shall be subject to the provisions of the order authorizing the issuance of such bonds or of such trust agreement.

Sec. 8. Trust funds. All monies received pursuant to the authority of this act, whether as proceeds from the sale of bonds or bond anticipation notes or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this act. The order authorizing the issuance of, or any trust agreement securing, any bonds or bond anticipation notes may provide that any of such monies may be temporarily invested pending the disbursement thereof and shall provide that any officer with whom, or any bank or trust company with which, such monies shall be deposited shall act as trustee of such monies and shall hold and apply the same for the purposes hereof, subject to such requirements as this act and such order or trust agreement may provide. Any

such monies may be deposited or invested as provided in such resolution or trust agreement in permissible deposits or investments under G.S. 147-69.1.

Sec. 9. Remedies. Any holder of bonds or bond anticipation notes issued under this act or of any coupons appertaining thereto and the trustee or trustees under any trust agreement or resolution authorizing the issuance of such bonds, except to the extent the rights herein given may be restricted by such trust agreement or resolution, may, either at law or in equity, by suit, action, mandamus or other proceedings, protect and enforce any and all rights under the laws of the State or granted hereunder or under such trust agreement or order, and may enforce and compel the performance of all duties required by this act or by such trust agreement or order to be performed by the secretary, including the fixing, charging and collecting of fees, rents and charges.

Sec. 10. Bond anticipation notes. With the approval of the secretary, subject to approval by the Council of State, the State Treasurer shall have the power, at any time and from time to time after the issuance of bonds hereunder shall have been authorized by the secretary, to borrow money for the purpose for which such bonds are to be issued in anticipation of the receipt of the proceeds of the sale of such bonds and within the authorized maximum amount of such bond issue. Bond anticipation notes shall be issued for monies borrowed under the provisions of this section, which notes shall be payable solely from the proceeds of the sale of such bonds or revenues derived from the project. Such notes may be renewed from time to time and such notes, including any renewal notes, shall mature not later than five years after the date on which the issuance of such bonds shall have been authorized. Such notes shall be authorized, shall be in such denomination or denominations, shall bear interest at such rate or rates, shall be in such form and shall be executed in such manner, all as may be fixed by the State Treasurer with the approval of the secretary and subject to approval by the Council of State.

Subject to determination by the secretary as to the manner in which the notes shall be offered for sale, whether by publishing notices in certain newspapers and financial journals or by mailing notices or by inviting bids by correspondence or otherwise, the State Treasurer is authorized to sell the notes, at either public or private sale, at one time or from time to time at the best price obtainable.

Sec. 11. Credit of State not pledged. Revenue bonds and bond anticipation notes issued under this act shall not be deemed to constitute a debt or liability of the State or a pledge of the faith and credit of the State, but shall be payable solely from the funds herein provided therefor. All such revenue bonds and notes shall contain on the face thereof a statement to the effect that neither the State, the Council of State, nor the secretary shall be obligated to pay the same or the interest thereon except from revenues as herein defined or, in the case of notes, from the proceeds of bonds, and that neither the faith and credit nor the taxing power of the State is pledged to the payment of the principal of or the interest on such bonds and notes. The issuance of revenue bonds or notes shall not directly or indirectly or contingently obligate the State to levy or to pledge any taxes whatsoever therefor.

Sec. 12. Construction contracts. Contracts for the construction of the project will be subject to the provisions of Article 8 of Chapter 143 of the North Carolina General Statutes.

Sec. 13. Negotiable instruments. Notwithstanding any of the foregoing provisions of this act or any recitals in any bonds or bond anticipation notes issued under the provisions of this act, all such bonds or notes and interest coupons appertaining thereto shall be and are hereby made negotiable instruments under the laws of this State, subject only to any applicable provisions for registration.

Sec. 14. Coupons as payment. The coupons appertaining to any bonds or bond anticipation notes after maturity shall be receivable in payment of all taxes, debts, dues, licenses, fines, and demands of any kind whatever due the State.

Sec. 15. Tax exemptions. All of the bonds, bond anticipation notes and coupons authorized by this act and their transfer shall be exempt from all State, county, and municipal taxation or assessment, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, and the interest on the bonds and the notes shall not be subject to taxation as to income, nor shall the bonds, notes, or coupons be subject to taxation when constituting a part of the surplus of any bank, trust company or other corporation.

Sec. 16. Investment legality. It shall be lawful for all executors, administrators, guardians, and fiduciaries generally, and all sinking fund commissions, to invest any monies in their hands in bonds and bond anticipation notes authorized by this act.

Sec. 17. Conflicting laws. This act is in addition to, not in derogation of, any other powers and authorities heretofore granted.

Sec. 18. Effective date. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 25th day of June, 1975.

H. B. 1267 CHAPTER 859

AN ACT TO EXEMPT PERSONS FROM MOTOR VEHICLE OPERATOR'S LICENSING REQUIREMENTS WHILE SUCH PERSONS ARE OPERATING BICYCLES WITH HELPER MOTORS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-4.01(23), as the same appears in the 1974 Cumulative Supplement to Volume 1C of the General Statutes, is amended by adding after the word "vehicle" on the third line the following sentence:

"This shall not include bicycles with helper motors rated less than one brake horsepower which produce only ordinary pedaling speeds up to a maximum of 20 miles per hour."

Sec. 2. G.S. 20-8, as the same appears in the 1965 Replacement Volume 1C and the 1974 Cumulative Supplement to Volume 1C, is amended by adding a new subsection (7) to read as follows:

"(7) Any person who is at least 16 years of age and while operating a bicycle with a helper motor rated less than one brake horsepower which produces only ordinary pedaling speeds up to a maximum of 20 miles per hour."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of June, 1975.

H. B. 1218 **CHAPTER 860**

AN ACT TO LIMIT ELIGIBILITY REQUIREMENTS FOR EMPLOYMENT AS A VOCATIONAL TEACHER IN SCHOOLS FOR JUVENILES OPERATED BY THE STATE DEPARTMENT OF HUMAN RESOURCES.

The General Assembly of North Carolina enacts:

Section 1. Applicants who are otherwise qualified for employment as a vocational teacher in any school for juveniles operated by the State Department of Human Resources shall not be required, as a condition of employment, to have completed any post-secondary school course.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

S. B. 901 **CHAPTER 861**

AN ACT TO DIRECT THE PROFESSIONAL LIABILITY INSURANCE STUDY COMMISSION TO STUDY: SHORTENING MALPRACTICE SUIT TIME, REQUIRING INFORMED CONSENT BY PERSONS TO BE TREATED BY HEALTH CARE PROVIDERS, AND CHANGING THE HEALTH CARE MALPRACTICE STANDARD.

The General Assembly of North Carolina enacts:

Section 1. The North Carolina Professional Liability Insurance Study Commission created by 1975 North Carolina Session Laws Chapter 623 is directed to study, and to make recommendations for such consideration as it deems necessary, the matters contained in this act. In addition to dealing with the issues specified in Section 1 of its createing act, the Liability Insurance Study Commission shall report to the session of the General Assembly held in the 1976 calendar year on its study and recommendations on the following:

(1) Shortening malpractice suit time (SB901/HB1240) as follows:

(a) The desirability of amending G.S. 1-15(b) by providing that the subsection shall not apply to an action arising out of the furnishing or failure to furnish medical, dental, or other care by a provider of health care, and that such an action shall be deemed to accrue at the time of the occurrence of or the failure to provide such care, except as otherwise provided by statute.

(b) The desirability of amending G.S. 1-17 by providing that an action on behalf of a minor arising out of the medical, dental, or other care by a provider of health care shall not be instituted after the expiration of five years after the cause of action accrued or after such minor becomes seven years of age, whichever is later.

(2) Requiring informed consent by persons to be treated by health care providers (SB902/HB1239) by enacting legislation as follows:

(a) No recovery shall be allowed in any court in this State against a physician, dentist, or other provider of health care for examining, treating, or operating upon a patient without the patient's informed consent where:

1. The action of the physician, dentist, or other provider of health care in obtaining the consent of the patient or of another person authorized to give consent for the patient was in accordance with an accepted standard of medical or dental practice among members of the medical or dental profession with

similar training and experience in the same or similar medical or dental community; and

2. A reasonable individual from the information provided by the physician, dentist, or other provider of health care under the circumstances would have a general understanding of the procedures or treatment and of the medically or dentally acceptable alternative procedures or treatment and of the substantial risks and hazards inherent in the proposed procedures or treatment which are recognized by other physicians, dentists, or similar providers of health care in the same or similar community who performs similar treatments or procedures; or

3. The patient would reasonably, under all the surrounding circumstances, have undergone such treatment or procedure of which he complains had he been advised by the physician, dentist, or other provider of health care involved, in accordance with the provisions of paragraphs (a) and (b) of this section.

(b) A consent which is evidenced in writing and which meets the foregoing standards, and which is signed by the patient or another authorized person, shall be presumed to be a valid consent. This presumption, however, may be subject to rebuttal only upon proof that such signature and consent was obtained by fraud, deception or misrepresentation of a material fact.

(3) Changing the health care malpractice standard (SB903/HB1241) by enacting legislation providing that in any action for damages for personal injury or death arising out of the furnishing or the failure to furnish medical, dental, or other health care, the defendant or defendants shall not be liable for the payment of damages unless the trier of the facts is satisfied by the greater weight of the evidence that the care of such provider or providers of health care was not in accordance with the practices and procedures which were approved and accepted by the providers of such care in the community in which the action arose or in similar communities at the time such action arose.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

S. B. 666 CHAPTER 862

AN ACT TO AMEND CHAPTER 25 OF THE GENERAL STATUTES, UNIFORM COMMERCIAL CODE, IN ORDER TO CONFORM SAID CHAPTER AND PARTICULARLY ARTICLE 9 THEREOF TO THE 1972 OFFICIAL TEXT OF THE UNIFORM COMMERCIAL CODE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 25-1-105 is amended to read as follows:

"§ 25-1-105. *Territorial application of the act; parties' power to choose applicable law.*—(1) Except as provided hereafter in this section, when a transaction bears a reasonable relation to this State and also to another state or nation the parties may agree that the law either of this State or of such other state or nation shall govern their rights and duties. Failing such agreement this act applies to transactions bearing an appropriate relation to this State.

(2) Where one of the following provisions of this act specifies the applicable law, that provision governs and a contrary agreement is effective only to the extent permitted by the law (including the conflict of laws rules) so specified:

Rights of creditors against sold goods. (G.S. 25-2-402).

Applicability of the Article on Bank Deposits and Collections. (G.S. 25-4-102).

Bulk transfers subject to the Article on Bulk Transfers. (G.S. 25-6-102).

Applicability of the Article on Investment Securities. (G.S. 25-8-106).

Perfection provisions of the Article on Secured Transactions. (G.S. 25-9-103)."

Sec. 2. G.S. 25-1-201(9) is amended to read as follows:

"(9) 'Buyer in ordinary course of business' means a person who in good faith and without knowledge that the sale to him is in violation of the ownership rights or security interest of a third party in the goods buys in ordinary course from a person in the business of selling goods of that kind but does not include a pawnbroker. All persons who sell minerals or the like (including oil and gas) at wellhead or minehead shall be deemed to be persons in the business of selling goods of that kind. 'Buying' may be for cash or by exchange of other property or on secured or unsecured credit and includes receiving goods or documents of title under a pre-existing contract for sale but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt."

Sec. 3. G.S. 25-1-201(37) is amended to read as follows:

"(37) 'Security interest' means an interest in personal property or fixtures which secures payment or performance of an obligation. The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer (G.S. 25-2-401) is limited in effect to a reservation of a 'security interest'. The term also includes any interest of a buyer of accounts or chattel paper which is subject to Article 9. The special property interest of a buyer of goods on identification of such goods to a contract for sale under G.S. 25-2-401 is not a 'security interest', but a buyer may also acquire a 'security interest' by complying with Article 9. Unless a lease or consignment is intended as security, reservation of title thereunder is not a 'security interest' but a consignment is in any event subject to the provisions on consignment sales (G.S. 25-2-326). Whether a lease is intended as security is to be determined by the facts of each case; however, (a) the inclusion of an option to purchase does not of itself make the lease one intended for security, and (b) an agreement that upon compliance with the terms of the lease the lessee shall become or has the option to become the owner of the property for no additional consideration or for a nominal consideration does make the lease one intended for security."

Sec. 4. G.S. 25-2-107 is amended to read as follows:

"§ 25-2-107. *Goods to be severed from realty; recording.*—(1) A contract for the sale of minerals or the like (including oil and gas) or a structure or its materials to be removed from realty is a contract for the sale of goods within this Article if they are to be severed by the seller but until severance a purported present sale thereof which is not effective as a transfer of an interest in land is effective only as a contract to sell.

(2) A contract for the sale apart from the land of growing crops or other things attached to realty and capable of severance without material harm thereto but not described in subsection (1) or of timber to be cut is a contract for the sale of goods within this Article whether the subject matter is to be severed

by the buyer or by the seller even though it forms part of the realty at the time of contracting, and the parties can by identification effect a present sale before severance.

(3) The provisions of this section are subject to any third party rights provided by the law relating to realty records, and the contract for sale may be executed and recorded as a document transferring an interest in land and shall then constitute notice to third parties of the buyer's rights under the contract for sale."

Sec. 5. G.S. 25-5-116 is amended to read as follows:

"§ 25-5-116. *Transfer and assignment.*—(1) The right to draw under a credit can be transferred or assigned only when the credit is expressly designated as transferable or assignable.

(2) Even though the credit specifically states that it is nontransferable or nonassignable the beneficiary may before performance of the conditions of the credit assign his right to proceeds. Such an assignment is an assignment of an account under Article 9 on Secured Transactions and is governed by that Article except that

(a) the assignment is ineffective until the letter of credit or advice of credit is delivered to the assignee which delivery constitutes perfection of the security interest under Article 9; and

(b) the issuer may honor drafts or demands for payment drawn under the credit until it receives a notification of the assignment signed by the beneficiary which reasonably identifies the credit involved in the assignment and contains a request to pay the assignee; and

(c) after what reasonably appears to be such a notification has been received the issuer may without dishonor refuse to accept or pay even to a person otherwise entitled to honor until the letter of credit or advice of credit is exhibited to the issuer.

(3) Except where the beneficiary has effectively assigned his right to draw or his right to proceeds, nothing in this section limits his right to transfer or negotiate drafts or demands drawn under the credit."

Sec. 6. Article 9; Secured Transactions; Sales of Accounts, Contract Rights and Chattel Paper, of Chapter 25, Uniform Commercial Code; G.S. 25-9-101 through G.S. 25-9-607, inclusive, as the same appears in 1965 Replacement Volume ID of the General Statutes of North Carolina and the 1974 Cumulative Supplement, in its entirety, is repealed.

Sec. 7. Article 9; Secured Transactions; Sales of Accounts and Chattel Paper, of Chapter 25, Uniform Commercial Code, is hereby rewritten to read as follows:

"ARTICLE 9

"SECURED TRANSACTIONS; SALES OF

"ACCOUNTS AND CHATTEL PAPER

"PART I

"SHORT TITLE, APPLICABILITY AND DEFINITIONS

"§ 25-9-101. *Short title.*—This Article shall be known and may be cited as Uniform Commerical Code - Secured Transactions.

"§ 25-9-102. *Policy and subject matter of Article.*—(1) Except as otherwise provided in G.S. 25-9-104 on excluded transactions, this Article applies

(a) to any transaction (regardless of its form) which is intended to create a security interest in personal property or fixtures including goods,

documents, instruments, general intangibles, chattel paper or accounts; and also

(b) to any sale of accounts or chattel paper.

(2) This Article applies to security interests created by contract including pledge, assignment, chattel mortgage, chattel trust, trust deed, factor's lien, equipment trust, conditional sale, trust receipt, other lien or title retention contract and lease or consignment intended as security. This Article does not apply to statutory liens except as provided in G.S. 25-9-310.

(3) The application of this Article to a security interest in a secured obligation is not affected by the fact that the obligation is itself secured by a transaction or interest to which this Article does not apply.

"§ 25-9-103. *Perfection of security interests in multiple State transactions.*— (1) Documents, instruments and ordinary goods.

(a) This subsection applies to documents and instruments and to goods other than those covered by a certificate of title described in subsection (2), mobile goods described in subsection (3), and minerals described in subsection (5).

(b) Except as otherwise provided in this subsection, perfection and the effect of perfection or non-perfection of a security interest in collateral are governed by the law of the jurisdiction where the collateral is when the last event occurs on which is based the assertion that the security interest is perfected or unperfected.

(c) If the parties to a transaction creating a purchase money security interest in goods in one jurisdiction understand at the time that the security interest attaches that the goods will be kept in another jurisdiction, then the law of the other jurisdiction governs the perfection and the effect of perfection or non-perfection of the security interest from the time it attaches until 30 days after the debtor receives possession of the goods and thereafter if the goods are taken to the other jurisdiction before the end of the thirty-day period.

(d) When collateral is brought into and kept in this State while subject to a security interest perfected under the law of the jurisdiction from which the collateral was removed, the security interest remains perfected, but if action is required by Part 3 of this Article to perfect the security interest,

(i) if the action is not taken before the expiration of the period of perfection in the other jurisdiction or the end of four months after the collateral is brought into this State, whichever period first expires, the security interest becomes unperfected at the end of that period and is thereafter deemed to have been unperfected as against a person who became a purchaser after removal;

(ii) if the action is taken before the expiration of the period specified in subparagraph (i), the security interest continues perfected thereafter;

(iii)for the purpose of priority over a buyer of consumer goods (subsection (2) of G.S. 25-9-307), the period of the effectiveness of a filing in the jurisdiction from which the collateral is removed is governed by the rules with respect to perfection in subparagraphs (i) and (ii).

(2) Certificate of title.

(a) This subsection applies to goods covered by a certificate of title issued under a statute of this State or of another jurisdiction under the law of which indication of a security interest on the certificate is required as a condition of perfection.

(b) Except as otherwise provided in this subsection, perfection and the effect of perfection or non-perfection of the security interest are governed by the law (including the conflict of laws rules) of the jurisdiction issuing the certificate until four months after the goods are removed from that jurisdiction and thereafter until the goods are registered in another jurisdiction, but in any event not beyond surrender of the certificate. After the expiration of that period, the goods are not covered by the certificate of title within the meaning of this section.

(c) Except with respect to the rights of a buyer described in the next paragraph, a security interest, perfected in another jurisdiction otherwise than by notation on a certificate of title, in goods brought into this State and thereafter covered by a certificate of title issued by this State is subject to the rules stated in paragraph (d) of subsection (1).

(d) If goods are brought into this State while a security interest therein is perfected in any manner under the law of the jurisdiction from which the goods are removed and a certificate of title is issued by this State and the certificate does not show that the goods are subject to the security interest or that they may be subject to security interests not shown on the certificate, the security interest is subordinate to the rights of a buyer of the goods who is not in the business of selling goods of that kind to the extent that he gives value and receives delivery of the goods after issuance of the certificate and without knowledge of the security interest.

(3) Accounts, general intangibles and mobile goods.

(a) This subsection applies to accounts (other than an account described in subsection (5) on minerals) and general intangibles and to goods which are mobile and which are of a type normally used in more than one jurisdiction, such as motor vehicles, trailers, rolling stock, airplanes, shipping containers, road building and construction machinery and commercial harvesting machinery and the like, if the goods are equipment or are inventory leased or held for lease by the debtor to others, and are not covered by a certificate of title described in subsection (2).

(b) The law (including the conflict of laws rules) of the jurisdiction in which the debtor is located governs the perfection and the effect of perfection or non-perfection of the security interest.

(c) If, however, the debtor is located in a jurisdiction which is not a part of the United States, and which does not provide for perfection of the security interest by filing or recording in that jurisdiction, the law of the jurisdiction in the United States in which the debtor has its major executive office in the United States governs the perfection and the effect of perfection or non-perfection of the security interest through filing. In the alternative, if the debtor is located in a jurisdiction which is not a part of the United States or Canada and the collateral is accounts or general intangibles for money due or to become due, the security

interest may be perfected by notification to the account debtor. As used in this paragraph, 'United States' includes its territories and possessions and the Commonwealth of Puerto Rico.

(d) A debtor shall be deemed located at his place of business if he has one, at his chief executive office if he has more than one place of business, otherwise at his residence. If, however, the debtor is a foreign air carrier under the Federal Aviation Act of 1958, as amended, it shall be deemed located at the designated office of the agent upon whom service of process may be made on behalf of the foreign air carrier.

(e) A security interest perfected under the law of the jurisdiction of the location of the debtor is perfected until the expiration of four months after a change of the debtor's location to another jurisdiction, or until perfection would have ceased by the law of the first jurisdiction, whichever period first expires. Unless perfected in the new jurisdiction before the end of that period, it becomes unperfected thereafter and is deemed to have been unperfected as against a person who became a purchaser after the change.

(4) Chattel paper. The rules stated for goods in subsection (1) apply to a possessory security interest in chattel paper. The rules stated for accounts in subsection (3) apply to a non-possessory security interest in chattel paper, but the security interest may not be perfected by notification to the account debtor.

(5) Minerals. Perfection and the effect of perfection or non-perfection of a security interest which is created by a debtor who has an interest in minerals or the like (including oil and gas) before extraction and which attaches thereto as extracted, or which attaches to an account resulting from the sale thereof at the wellhead or minehead are governed by the law (including the conflict of laws rules) of the jurisdiction wherein the wellhead or minehead is located.

"§ 25-9-104. *Transactions excluded from Article.*—This Article does not apply

(a) to a security interest subject to any statute of the United States to the extent that such statute governs the rights of parties to and third parties affected by transactions in particular types of property; or

(b) to a landlord's lien; or

(c) to a lien given by statute or other rule of law for services or materials except as provided in G.S. 25-9-310 on priority of such liens; or

(d) to a transfer of a claim for wages, salary or other compensation of an employee; or

(e) to a transfer by a government or governmental subdivision or agency; or

(f) to a sale of accounts or chattel paper as part of a sale of the business out of which they arose, or an assignment of accounts or chattel paper which is for the purpose of collection only, or a transfer of a right to payment under a contract to any assignee who is also to do the performance under the contract or a transfer of a single account to an assignee in whole or partial satisfaction of a preexisting indebtedness; or

(g) to a transfer of an interest in or claim in or under any policy of insurance, except as provided with respect to proceeds (G.S. 25-9-306) and priorities in proceeds (G.S. 25-9-312); or

(h) to a right represented by a judgment (other than a judgment taken on a right to payment which was collateral); or

(i) to any right of set-off; or

(j) except to the extent that provision is made for fixtures in G.S. 25-9-313, to the creation or transfer of an interest in or lien on real estate, including a lease or rents thereunder; or

(k) to a transfer in whole or in part of any claim arising out of tort; or

(l) to a transfer of an interest in any deposit account (subsection (1) of G.S. 25-9-105), except as provided with respect to proceeds (G.S. 25-9-306) and priorities in proceeds (G.S. 25-9-312).

"§ 25-9-105. *Definitions and index of definitions.*—(1) In this Article unless the context otherwise requires:

(a) 'Account debtor' means the person who is obligated on an account, chattel paper or general intangible;

(b) 'Chattel paper' means a writing or writings which evidence both a monetary obligation and a security interest in or a lease of specific goods, but a charter or other contract involving the use or hire of a vessel is not chattel paper. When a transaction is evidenced both by such a security agreement or a lease and by an instrument or a series of instruments, the group of writings taken together constitutes chattel paper;

(c) 'Collateral' means the property subject to a security interest, and includes accounts and chattel paper which have been sold;

(d) 'Debtor' means the person who owes payment or other performance of the obligation secured, whether or not he owns or has rights in the collateral, and includes the seller of accounts or chattel paper. Where the debtor and the owner of the collateral are not the same person, the term 'debtor' means the owner of the collateral in any provision of the Article dealing with the collateral, the obligor in any provision dealing with the obligation, and may include both where the context so requires;

(e) 'Deposit account' means a demand, time, savings, passbook or like account maintained with a bank, savings and loan association, credit union or like organization, other than an account evidenced by a certificate of deposit;

(f) 'Document' means document of title as defined in the general definitions of Article 1 (G.S. 25-1-201), and a receipt of the kind described in subsection (2) of G.S. 25-7-201;

(g) 'Encumbrance' includes real estate mortgages and other liens on real estate and all other rights in real estate that are not ownership interests;

(h) 'Goods' includes all things which are movable at the time the security interest attaches or which are fixtures (G.S. 25-9-313), but does not include money, documents, instruments, accounts, chattel paper, general intangibles, or minerals or the like (including oil and gas) before extraction. 'Goods' also includes standing timber which is to be cut and removed under a conveyance or contract for sale, the unborn young of animals, and growing crops;

(i) 'Instrument' means a negotiable instrument (defined in G.S. 25-3-104), or a security (defined in G.S. 25-8-102) or any other writing which evidences a right to the payment of money and is not itself a security agreement or lease and is of a type which is in ordinary course of

business transferred by delivery with any necessary indorsement or assignment;

(j) 'Mortgage' means a consensual interest created by a real estate mortgage, a trust deed on real estate, or the like;

(k) An advance is made 'pursuant to commitment' if the secured party has bound himself to make it, whether or not a subsequent event of default or other event not within his control has relieved or may relieve him from his obligation;

(l) 'Security agreement' means an agreement which creates or provides for a security interest;

(m) 'Secured party' means a lender, seller or other person in whose favor there is a security interest, including a person to whom accounts or chattel paper have been sold. When the holders of obligations issued under an indenture of trust, equipment trust agreement or the like are represented by a trustee or other person, the representative is the secured party.

(2) Other definitions applying to this Article and the sections in which they appear are:

'Account.' (G.S. 25-9-106).
'Attach.' (G.S. 25-9-203).
'Construction mortgage.' (G.S. 25-9-313(1)).
'Consumer goods.' (G.S. 25-9-109(1)).
'Equipment.' (G.S. 25-9-109(2)).
'Farm products.' (G.S. 25-9-109(3)).
'Fixture.' (G.S. 25-9-313(1)).
'Fixture filing.' (G.S. 25-9-313(1)).
'General intangibles.' (G.S. 25-9-106).
'Inventory.' (G.S. 25-9-109(4)).
'Lien creditor.' (G.S. 25-9-301(3)).
'Proceeds.' (G.S. 25-9-306(1)).
'Purchase money security interest.' (G.S. 25-9-107).
'United States.' (G.S. 25-9-103).

(3) The following definitions in other Ar icles apply to this Article:

'Check.' (G.S. 25-3-104).
'Contract for sale.' (G.S. 25-2-106).
'Holder in due course.' (G.S. 25-3-302).
'Note.' (G.S. 25-3-104).
'Sale.' (G.S. 25-2-106).

(4) In addition Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.

"§ 25-9-106. *Definitions*: '*Account*'; '*General Intangibles*'.—'Account' means any right to payment for goods sold or leased or for services rendered which is not evidenced by an instrument or chattel paper, whether or not it has been earned by performance. 'General intangibles' means any personal property (including things in action) other than goods, accounts, chattel paper, documents, instruments, and money. All rights to payment earned or unearned under a charter or other contract involving the use or hire of a vessel and all rights incident to the charter or contract are accounts.

"§ 25-9-107. *Definitions*: '*Purchase money security interest*'.—A security interest is a 'purchase money security interest' to the extent that it is

(a) taken or retained by the seller of the collateral to secure all or part of its price; or

(b) taken by a person who by making advances or incurring an obligation gives value to enable the debtor to acquire rights in or the use of collateral if such value is in fact so used.

"§ 25-9-108. *When after-acquired collateral not security for antecedent debt.*—Where a secured party makes an advance, incurs an obligation, releases a perfected security interest, or otherwise gives new value which is to be secured in whole or in part by after-acquired property his security interest in the after-acquired collateral shall be deemed to be taken for new value and not as security for an antecedent debt if the debtor acquires his rights in such collateral either in the ordinary course of his business or under a contract of purchase made pursuant to the security agreement within a reasonable time after new value is given.

"§ 25-9-109. *Classification of goods*; '*consumer goods*'; '*equipment*'; '*farm products*'; '*inventory*'.—Goods are

(1) 'consumer goods' if they are used or bought for use primarily for personal, family or household purposes;

(2) 'equipment' if they are used or bought for use primarily in business (including farming or a profession) or by a debtor who is a non-profit organization or a governmental subdivision or agency or if the goods are not included in the definitions of inventory, farm products or consumer goods;

(3) 'farm products' if they are crops or livestock or supplies used or produced in farming operations or if they are products of crops or livestock in their unmanufactured states (such as ginned cotton, wool-clip, maple syrup, milk and eggs), and if they are in the possession of a debtor engaged in raising, fattening, grazing or other farming operations. If goods are farm products they are neither equipment nor inventory;

(4) 'inventory' if they are held by a person who holds them for sale or lease or to be furnished under contracts of service or if he has so furnished them, or if they are raw materials, work in process or materials used or consumed in a business. Inventory of a person is not to be classified as his equipment.

"§ 25-9-110. *Sufficiency of description.*—For the purposes of this Article any description of personal property or real estate is sufficient whether or not it is specific if it reasonably identifies what is described.

"§ 25-9-111. *Applicability of bulk transfer laws.*—The creation of a security interest is not a bulk transfer under Article 6 (see G.S. 25-6-103).

"§ 25-9-112. *Where collateral is not owned by debtor.*—Unless otherwise agreed, when a secured party knows that collateral is owned by a person who is not the debtor, the owner of the collateral is entitled to receive from the secured party any surplus under G.S. 25-9-502(2) or under G.S. 25-9-504(1), and is not liable for the debt or for any deficiency after resale, and he has the same right as the debtor

(a) to receive statements under G.S. 25-9-208;

(b) to receive notice of and to object to a secured party's proposal to retain the collateral in satisfaction of the indebtedness under G.S. 25-9-505;

(c) to redeem the collateral under G.S. 25-9-506;

(d) to obtain injunctive or other relief under G.S. 25-9-507(1); and

(e) to recover losses caused to him under G.S. 25-9-208(2).

"§ 25-9-113. *Security interests arising under Article on Sales.*—A security interest arising solely under the Article on Sales (Article 2) is subject to the provisions of this Article except that to the extent that and so long as the debtor does not have or does not lawfully obtain possession of the goods

(a) no security agreement is necessary to make the security interest enforceable; and

(b) no filing is required to perfect the security interest; and

(c) the rights of the secured party on default by the debtor are governed by the Article on Sales (Article 2).

"§ 25-9-114. *Consignment.*—(1) A person who delivers goods under a consignment which is not a security interest and who would be required to file under this Article by paragraph (3)(c) of G.S. 25-2-326 has priority over a secured party who is or becomes a creditor of the consignee and who would have a perfected security interest in the goods if they were the property of the consignee, and also has priority with respect to identifiable cash proceeds received on or before delivery of the goods to a buyer, if

(a) the consignor complies with the filing provision of the Article on Sales with respect to consignments (paragraph (3)(c) of G.S. 25-2-326) before the consignee receives possession of the goods; and

(b) the consignor gives notification in writing to the holder of the security interest if the holder has filed a financing statement covering the same types of goods before the date of the filing made by the consignor; and

(c) the holder of the security interest receives the notification within five years before the consignee receives possession of the goods; and

(d) the notification states that the consignor expects to deliver goods on consignment to the consignee, describing the goods by item or type.

(2) In the case of a consignment which is not a security interest and in which the requirements of the preceding subsection have not been met, a person who delivers goods to another is subordinate to a person who would have a perfected security interest in the goods if they were the property of the debtor."

"PART 2

"VALIDITY OF SECURITY AGREEMENT AND RIGHTS OF PARTIES THERETO

"§ 25-9-201. *General validity of security agreement.*—Except as otherwise provided by this Act a security agreement is effective according to its terms between the parties, against purchasers of the collateral and against creditors. Nothing in this Article validates any charge or practice illegal under any statute or regulation thereunder governing usury, small loans, retail installment sales, or the like, or extends the application of any such statute or regulation to any transaction not otherwise subject thereto.

"§ 25-9-202. *Title to collateral immaterial.*—Each provision of this Article with regard to rights, obligations and remedies applies whether title to collateral is in the secured party or in the debtor.

"§ 25-9-203. *Attachment and enforceability of security interest; proceeds; formal requisites.*—(1) Subject to the provisions of G.S. 25-4-208 on the security interest of a collecting bank and G.S. 25-9-113 on a security interest arising under the Article on Sales, a security interest is not enforceable against

the debtor or third parties with respect to the collateral and does not attach unless

(a) the collateral is in the possession of the secured party pursuant to agreement, or the debtor has signed a security agreement which contains a description of the collateral and in addition, when the security interest covers crops growing or to be grown or timber to be cut, a description of the land concerned; and

(b) value has been given; and

(c) the debtor has rights in the collateral.

(2) A security interest attaches when it becomes enforceable against the debtor with respect to the collateral. Attachment occurs as soon as all of the events specified in subsection (1) have taken place unless explicit agreement postpones the time of attaching.

(3) Unless otherwise agreed a security agreement gives the secured party the rights to proceeds provided by G.S. 25-9-306.

(4) A transaction, although subject to this Article, is also subject to the North Carolina Consumer Finance Act (being G.S. 53-164 through G.S. 53-191), G.S. 24-1 and G.S. 24-2, and G.S. 91-1 through G.S. 91-8, the Retail Installment Sales Act (being Chapter 25A of the North Carolina General Statutes), and in the case of conflict between the provisions of this Article and any such statute, the provisions of such statute control. Failure to comply with any applicable statute has only the effect which is specified therein.

"§ 25-9-204. *After-acquired property; future advances.*—(1) Except as provided in subsection (2), a security agreement may provide that any or all obligations covered by the security agreement are to be secured by after-acquired collateral.

(2) No security interest attaches under an after-acquired property clause to consumer goods other than accessions (G.S. 25-9-314) when given as additional security unless the debtor acquired rights in them within ten days after the secured party gives value.

(3) Obligations covered by a security agreement may include future advances or other value whether or not the advances or value are given pursuant to commitment (subsection (1) of G.S. 25-9-105).

"§ 25-9-205. *Use or disposition of collateral without accounting permissible.*—A security interest is not invalid or fraudulent against creditors by reason of liberty in the debtor to use, commingle or dispose of all or part of the collateral (including returned or repossessed goods) or to collect or compromise accounts or chattel paper, or to accept the return of goods or make repossessions, or to use, commingle or dispose of proceeds, or by reason of the failure of the secured party to require the debtor to account for proceeds or replace collateral. This section does not relax the requirements of possession where perfection of a security interest depends upon possession of the collateral by the secured party or by a bailee.

"§ 25-9-206. *Agreement not to assert defenses against assignee; modification of sales warranties where security agreement exists.*—(1) Subject to any statute or decision which establishes a different rule for buyers or lessees of consumer goods, an agreement by a buyer or lessee that he will not assert against an assignee any claim or defense which he may have against the seller or lessor is enforceable by an assignee who takes his assignment for value, in good faith and without notice of a claim or defense, except as to defenses of a type which may

be asserted against a holder in due course of a negotiable instrument under the Article on Commercial Paper (Article 3). A buyer who as part of one transaction signs both a negotiable instrument and a security agreement makes such an agreement.

(2) When a seller retains a purchase money security interest in goods the Article on Sales (Article 2) governs the sale and any disclaimer, limitation or modification of the seller's warranties.

"§ 25-9-207. *Rights and duties when collateral is in secured party' s possession.*—(1) A secured party must use reasonable care in the custody and preservation of collateral in his possession. In the case of an instrument or chattel paper reasonable care includes taking necessary steps to preserve rights against prior parties unless otherwise agreed.

(2) Unless otherwise agreed, when collateral is in the secured party's possession

(a) reasonable expenses (including the cost of any insurance and payment of taxes or other charges) incurred in the custody, preservation, use or operation of the collateral are chargeable to the debtor and are secured by the collateral;

(b) the risk of accidental loss or damage is on the debtor to the extent of any deficiency in any effective insurance coverage;

(c) the secured party may hold as additional security any increase or profits (except money) received from the collateral, but money so received, unless remitted to the debtor, shall be applied in reduction of the secured obligation;

(d) the secured party must keep the collateral identifiable but fungible collateral may be commingled;

(e) the secured party may repledge the collateral upon terms which do not impair the debtor's right to redeem it.

(3) A secured party is liable for any loss caused by his failure to meet any obligation imposed by the preceding subsections but does not lose his security interest.

(4) A secured party may use or operate the collateral for the purpose of preserving the collateral or its value or pursuant to the order of a court of appropriate jurisdiction or, except in the case of consumer goods, in the manner and to the extent provided in the security agreement.

"§ 25-9-208. *Request for statement of account or list of collateral.*—(1) A debtor may sign a statement indicating what he believes to be the aggregate amount of unpaid indebtedness as of a specified date and may send it to the secured party with a request that the statement be approved or corrected and returned to the debtor. When the security agreement or any other record kept by the secured party identifies the collateral a debtor may similarly request the secured party to approve or correct a list of the collateral.

(2) The secured party must comply with such a request within two weeks after receipt by sending a written correction or approval. If the secured party claims a security interest in all of a particular type of collateral owned by the debtor he may indicate that fact in his reply and need not approve or correct an itemized list of such collateral. If the secured party without reasonable excuse fails to comply he is liable for any loss caused to the debtor thereby; and if the debtor has properly included in his request a good faith statement of the obligation or a list of the collateral or both the secured party may claim a

security interest only as shown in the statement against persons misled by his failure to comply. If he no longer has an interest in the obligation or collateral at the time the request is received he must disclose the name and address of any successor in interest known to him and he is liable for any loss caused to the debtor as a result of failure to disclose. A successor in interest is not subject to this section until a request is received by him.

(3) A debtor is entitled to such a statement once every six months without charge. The secured party may require payment of a charge not exceeding ten dollars ($10.00) for each additional statement furnished.

"PART 3

"RIGHTS OF THIRD PARTIES; PERFECTED AND UNPERFECTED SECURITY INTERESTS; RULES OF PRIORITY.

"§ 25-9-301. *Persons who take priority over unperfected security interests; rights of 'lien creditor'.*—(1) Except as otherwise provided in subsection (2), an unperfected security interest is subordinate to the rights of

(a) persons entitled to priority under G.S. 25-9-312;

(b) a person who becomes a lien creditor before the security interest is perfected;

(c) in the case of goods, instruments, documents, and chattel paper, a person who is not a secured party and who is a transferee in bulk or other buyer not in ordinary course of business or is a buyer of farm products in ordinary course of business, to the extent that he gives value and receives delivery of the collateral without knowledge of the security interest and before it is perfected;

(d) in the case of accounts and general intangibles, a person who is not a secured party and who is a transferee to the extent that he gives value without knowledge of the security interest and before it is perfected.

(2) If the secured party files with respect to a purchase money security interest before or within ten days after the debtor receives possession of the collateral, he takes priority over the rights of a transferee in bulk or of a lien creditor which arise between the time the security interest attaches and the time of filing.

(3) A 'lien creditor' means a creditor who has acquired a lien on the property involved by attachment, levy or the like and includes an assignee for benefit of creditors from the time of assignment, and a trustee in bankruptcy from the date of the filing of the petition or a receiver in equity from the time of appointment.

(4) A person who becomes a lien creditor while a security interest is perfected takes subject to the security interest only to the extent that it secures advances made before he becomes a lien creditor or within 45 days thereafter or made without knowledge of the lien or pursuant to a commitment entered into without knowledge of the lien.

"§ 25-9-302. *When filing is required to perfect security interest; security interests to which filing provisions of this Article do not apply.*—(1) A financing statement must be filed to perfect all security interests except the following:

(a) a security interest in collateral in possession of the secured party under G.S. 25-9-305;

(b) a security interest temporarily perfected in instruments or documents

without delivery under G.S. 25-9-304 or in proceeds for a 10 day period under G.S. 25-9-306;

(c) a security interest created by an assignment of a beneficial interest in a trust or a decedent's estate;

(d) a purchase money security interest in consumer goods; but compliance with G.S. 20-58 et seq. is required for a motor vehicle required to be registered; and fixture filing is required for priority over conflicting interests in fixtures to the extent provided in G.S. 25-9-313;

(e) an assignment of accounts which does not alone or in conjunction with other assignments to the same assignee transfer a significant part of the outstanding accounts of the assignor;

(f) a security interest of a collecting bank (G.S. 25-4-208) or arising under the Article on Sales (see G.S. 25-9-113) or covered in subsection (3) of this section;

(g) an assignment for the benefit of all the creditors of the transferor, and subsequent transfers by the assignee thereunder.

(2) If a secured party assigns a perfected security interest, no filing under this Article is required in order to continue the perfected status of the security interest against creditors of and transferees from the original debtor.

(3) The filing of a financing statement otherwise required by this Article is not necessary or effective to perfect a security interest in property subject to

(a) a statute or treaty of the United States which provides for a national or international registration or a national or international certificate of title or which specifies a place of filing different from that specified in this Article for filing of the security interest; or

(b) the following statute of this State: G.S. 20-58 et seq. as to any personal property required to be registered pursuant to Chapter 20 of the General Statutes; but during any period in which collateral is inventory held for sale by a person who is in the business of selling goods of that kind, the filing provisions of this Article (Part 4) apply to a security interest in that collateral created by him as debtor; or

(c) a certificate of title statute of another jurisdiction under the law of which indication of a security interest on the certificate is required as a condition of perfection (subsection (2) of G.S. 25-9-103).

(4) Compliance with a statute or treaty described in subsection (3) is equivalent to the filing of a financing statement under this Article, and a security interest in property subject to the statute or treaty can be perfected only by compliance therewith except as provided in G.S. 25-9-103 on multiple state transactions. Duration and renewal of perfection of a security interest perfected by compliance with the statute or treaty are governed by the provisions of the statute or treaty; in other respects the security interest is subject to this Article.

(5) The filing provisions of this Article do not apply to a security interest in property of any description or any interest therein created by a deed of trust or mortgage made by a public utility as defined in G.S. 62-3(23) or by any electric or telephone membership domesticated or incorporated in North Carolina, but the deed of trust or mortgage shall be registered in the county or counties in which such deed of trust or mortgage is required by G.S. 47-20 to be registered.

(6) The filing provisions of this Article do not apply to any security interest created in connection with the issuance of any bond, note or other evidence of

indebtedness for borrowed money by this State or any political subdivision or agency thereof.

"§ 25-9-303. *When security interest is perfected; continuity of perfection.*—(1) A security interest is perfected when it has attached and when all of the applicable steps required for perfection have been taken. Such steps are specified in G.S. 25-9-302, 25-9-304, 25-9-305 and 25-9-306. If such steps are taken before the security interest attaches, it is perfected at the time it attaches.

(2) If a security interest is originally perfected in any way permitted under this Article and is subsequently perfected in some other way under this Article, without an intermediate period when it was unperfected, the security interest shall be deemed to be perfected continuously for the purposes of this Article.

"§ 25-9-304. *Perfection of security interest in instruments, documents, and goods covered by documents; perfection by permissive filing; temporary perfection without filing or transfer of possession.*—(1) A security interest in chattel paper or negotiable documents may be perfected by filing. A security interest in money or instruments (other than instruments which constitute part of chattel paper) can be perfected only by the secured party's taking possession, except as provided in subsections (4) and (5) of this section and subsections (2) and (3) of G.S. 25-9-306 on proceeds.

(2) During the period that goods are in the possession of the issuer of a negotiable document therefor, a security interest in the goods is perfected by perfecting a security interest in the document, and any security interest in the goods otherwise perfected during such period is subject thereto.

(3) A security interest in goods in the possession of a bailee other than one who has issued a negotiable document therefor is perfected by issuance of a document in the name of the secured party or by the bailee's receipt of notification of the secured party's interest or by filing as to the goods.

(4) A security interest in instruments or negotiable documents is perfected without filing or the taking of possession for a period of 21 days from the time it attaches to the extent that it arises for new value given under a written security agreement.

(5) A security interest remains perfected for a period of 21 days without filing where a secured party having a perfected security interest in an instrument, a negotiable document or goods in possession of a bailee other than one who has issued a negotiable document therefor

(a) makes available to the debtor the goods or documents representing the goods for the purpose of ultimate sale or exchange or for the purpose of loading, unloading, storing, shipping, transshipping, manufacturing, processing or otherwise dealing with them in a manner preliminary to their sale or exchange, but priority between conflicting security interests in the goods is subject to subsection (3) of G.S. 25-9-312; or

(b) delivers the instrument to the debtor for the purpose of ultimate sale or exchange or of presentation, collection, renewal or registration of transfer.

(6) After the 21 day period in subsections (4) and (5) perfection depends upon compliance with applicable provisions of this Article.

"§ 25-9-305. *When possession by secured party perfects security interest without filing.*—A security interest in letters of credit and advices of credit (subsection (2) (a) of G.S. 25-5-116), goods, instruments, money, negotiable documents or chattel paper may be perfected by the secured party's taking

possession of the collateral. If such collateral other than goods covered by a negotiable document is held by a bailee, the secured party is deemed to have possession from the time the bailee receives notification of the secured party's interest. A security interest is perfected by possession from the time possession is taken without relation back and continues only so long as possession is retained, unless otherwise specified in this Article. The security interest may be otherwise perfected as provided in this Article before or after the period of possession by the secured party.

"§ 25-9-306. '*Proceeds*'; *secured party's rights on disposition of collateral.*—(1) 'Proceeds' includes whatever is received upon the sale, exchange, collection or other disposition of collateral or proceeds. Insurance payable by reason of loss or damage to the collateral is proceeds, except to the extent that it is payable to a person other than a party to the security agreement. Money, checks, deposit accounts, and the like are 'cash proceeds'. All other proceeds are 'non-cash proceeds'.

(2) Except where this Article otherwise provides, a security interest continues in collateral notwithstanding sale, exchange or other disposition thereof unless the disposition was authorized by the secured party in the security agreement or otherwise, and also continues in any identifiable proceeds including collections received by the debtor.

(3) The security interest in proceeds is a continuously perfected security interest if the interest in the original collateral was perfected but it ceases to be a perfected security interest and becomes unperfected ten days after receipt of the proceeds by the debtor unless

(a) a filed financing statement covers the original collateral and the proceeds are collateral in which a security interest may be perfected by filing in the office or offices where the financing statement has been filed and, if the proceeds are acquired with cash proceeds, the description of collateral in the financing statement indicates the types of property constituting the proceeds; or

(b) a filed financing statement covers the original collateral and the proceeds are identifiable cash proceeds; or

(c) the security interest in the proceeds is perfected before the expiration of the 10 day period.

Except as provided in this section, a security interest in proceeds can be perfected only by the methods or under the circumstances permitted in this Article for original collateral of the same type.

(4) In the event of insolvency proceedings instituted by or against a debtor, a secured party with a perfected security interest in proceeds has a perfected security interest only in the following proceeds:

(a) in identifiable non-cash proceeds and in separate deposit accounts containing only proceeds;

(b) in identifiable cash proceeds in the form of money which is neither commingled with other money nor deposited in a deposit account prior to the insolvency proceedings;

(c) in identifiable cash proceeds in the form of checks and the like which are not deposited in a deposit account prior to the insolvency proceedings; and

(d) in all cash and deposit accounts of the debtor in which proceeds have

been commingled with other funds, but the perfected security interest under this paragraph(d) is

(i) subject to any right to set-off; and

(ii) limited to an amount not greater than the amount of any cash proceeds received by the debtor within ten days before the institution of the insolvency proceedings less the sum of (I) the payments to the secured party on account of cash proceeds received by the debtor during such periods and (II) the cash proceeds received by the debtor during such period to which the secured party is entitled under paragraphs (a) through (c) of this subsection (4).

(5) If a sale of goods results in an account or chattel paper which is transferred by the seller to a secured party, and if the goods are returned to or are repossessed by the seller or the secured party, the following rules determine priorities:

(a) If the goods were collateral at the time of sale, for an indebtedness of the seller which is still unpaid, the original security interest attaches again to the goods and continues as a perfected security interest if it was perfected at the time when the goods were sold. If the security interest was originally perfected by a filing which is still effective, nothing further is required to continue the perfected status; in any other case, the secured party must take possession of the returned or repossessed goods or must file.

(b) An unpaid transferee of the chattel paper has a security interest in the goods against the transferor. Such security interest is prior to a security interest asserted under paragraph (a) to the extent that the transferee of the chattel paper was entitled to priority under G.S. 25-9-308.

(c) An unpaid transferee of the account has a security interest in the goods against the transferor. Such security interest is subordinate to a security interest asserted under paragraph(a).

(d) A security interest of an unpaid transferee asserted under paragraph (b) or (c) must be perfected for protection against creditors of the transferor and purchasers of the returned or repossessed goods.

"§ 25-9-307. *Protection of buyers of goods.*—(1) A buyer in ordinary course of business (subsection (9) of G.S. 25-1-201) other than a person buying farm products from a person engaged in farming operations takes free of a security interest created by his seller even though the security interest is perfected and even though the buyer knows of its existence.

(2) In the case of consumer goods, a buyer takes free of a security interest even though perfected if he buys without knowledge of the security interest, for value and for his own personal, family or household purposes unless prior to the purchase the secured party has filed a financing statement covering such goods.

(3) A buyer other than a buyer in ordinary course of business (subsection (1) of this section) takes free of a security interest to the extent that it secures future advances made after the secured party acquires knowledge of the purchase, or more than 45 days after the purchase, which ever first occurs, unless made pursuant to a commitment entered into without knowledge of the purchase and before the expiration of the 45-day period.

"§ 25-9-308. *Purchase of chattel paper and instruments.*—A purchaser of chattel paper or an instrument who gives new value and takes possession of it in

the ordinary course of his business has priority over a security interest in the chattel paper or instrument

(a) which is perfected under G.S. 25-9-304 (permissive filing and temporary perfection) or under G.S. 25-9-306 (perfection as to proceeds) if he acts without knowledge that the specific paper or instrument is subject to a security interest; or

(b) which is claimed merely as proceeds of inventory subject to a security interest (G.S 25-9-306) even though he knows that the specific paper or instrument is subject to the security interest.

"§ 25-9-309. *Protection of purchasers of instruments and documents.*—Nothing in this Article limits the rights of a holder in due course of a negotiable instrument (G.S. 25-3-302) or a holder to whom a negotiable document of title has been duly negotiated (G.S. 25-7-501) or a bona fide purchaser of a security (G.S 25-8-301) and such holders or purchasers take priority over an earlier security interest even though perfected. Filing under this Article does not constitute notice of the security interest to such holders or purchasers.

"§ 25-9-310. *Priority of certain liens arising by operation of law.*—When a person in the ordinary course of his business furnishes services or materials with respect to goods subject to a security interest, a lien upon goods in the possession of such person given by statute or rule of law for such materials or services takes priority over a perfected security interest unless the lien is statutory and the statute expressly provides otherwise.

"§ 25-9-311. *Alienability of debtor's rights: judicial process.*—The debtor's rights in collateral may be voluntarily or involuntarily transferred (by way of sale, creation of a security interest, attachment, levy, garnishment or other judicial process) notwithstanding a provision in the security agreement prohibiting any transfer or making the transfer constitute a default.

"§ 25-9-312. *Priorities among conflicting security interests in the same collateral.*—(1) The rules of priority stated in other sections of this Part and in the following sections shall govern when applicable: G.S 25-4-208 with respect to the security interests of collecting banks in items being collected, accompanying documents and proceeds; G.S. 25-9-103 on security interests related to other jurisdictions; G.S. 25-9-114 on consignments.

(2) A perfected security interest in crops for new value given to enable the debtor to produce the crops during the production season and given not more than three months before the crops become growing crops by planting or otherwise takes priority over an earlier perfected security interest to the extent that such earlier interest secures obligations due more than six months before the crops become growing crops by planting or otherwise, even though the person giving new value had knowledge of the earlier security interest.

(3) A perfected purchase money security interest in inventory has priority over a conflicting security interest in the same inventory and also has priority in identifiable cash proceeds received on or before the delivery of the inventory to a buyer if

(a) the purchase money security interest is perfected at the time the debtor receives possession of the inventory; and

(b) the purchase money secured party gives notification in writing to the holder of the conflicting security interest if the holder had filed a financing statement covering the same types of inventory (i) before the date of the filing made by the purchase money secured party, or (ii)

before the beginning of the 21 day period where the purchase money security interest is temporarily perfected without filing or possession (subsection (5) of G.S. 25-9-304); and

(c) the holder of the conflicting security interest receives the notification within five years before the debtor receives possession of the inventory; and

(d) the notification states that the person giving the notice has or expects to acquire a purchase money security interest in inventory of the debtor, describing such inventory by item or type.

(4) A purchase money security interest in collateral other than inventory has priority over a conflicting security interest in the same collateral or its proceeds if the purchase money security interest is perfected at the time the debtor receives possession of the collateral or within ten days thereafter.

(5) In all cases not governed by other rules stated in this section (including cases of purchase money security interests which do not qualify for the special priorities set forth in subsections (3) and (4) of this section), priority between conflicting security interests in the same collateral shall be determined according to the following rules:

(a) Conflicting security interests rank according to priority in time of filing or perfection. Priority dates from the time a filing is first made covering the collateral or the time the security interest is first perfected, whichever is earlier, provided that there is no period thereafter when there is neither filing nor perfection.

(b) So long as conflicting security interests are unperfected, the first to attach has priority.

(6) For the purposes of subsection (5) a date of filing or perfection as to collateral is also a date of filing or perfection as to proceeds.

(7) If future advances are made while a security interest is perfected by filing or the taking of possession, the security interest has the same priority for the purposes of subsection (5) with respect to the future advances as it does with respect to the first advance. If a commitment is made before or while the security interest is so perfected, the security interest has the same priority with respect to advances made pursuant thereto. In other cases a perfected security interest has priority from the date the advance is made.

"§ 25-9-313. *Priority of security interests in fixtures.*—(1) In this section and in the provisions of Part 4 of this Article referring to fixture filing, unless the context otherwise requires

(a) goods are 'fixtures' when they become so related to particular real estate that an interest in them arises under real estate law

(b) a 'fixture filing' is the filing of a financing statement covering goods which are or are to become fixtures and conforming to the requirements of subsection (5) of G.S. 25-9-402 or of a mortgage or deed of trust conforming to the requirements of subsection (6) of G.S. 25-9-402.

(c) a mortgage is a 'construction mortgage' to the extent that it secures an obligation incurred for the construction of an improvement on land including the acquisition cost of the land, if the recorded writing so indicates.

(2) A security interest under this Article may be created in goods which are fixtures or may continue in goods which become fixtures, but no security

interest exists under this Article in ordinary building materials incorporated into an improvement on land.

(3) This Article does not prevent creation of an encumbrance upon fixtures pursuant to real estate law.

(4) A perfected security interest in fixtures has priority over the conflicting interest of an encumbrancer or owner of the real estate where

(a) the security interest is a purchase money security interest, the interest of the encumbrancer or owner arises before the goods become fixtures, the security interest is perfected by a fixture filing before the goods become fixtures or within ten days thereafter, and the debtor has an interest of record in the real estate or is in possession of the real estate; or

(b) the security interest is perfected by a fixture filing before the interest of the encumbrancer or owner is of record, the security interest has priority over any conflicting interest of a predecessor in title of the encumbrancer or owner, and the debtor has an interest of record in the real estate or is in possession of the real estate; or

(c) the fixtures are readily removable factory or office machines or readily removable replacements of domestic appliances which are consumer goods, and before the goods become fixtures the security interest is perfected by any method permitted by this Article; or

(d) the conflicting interest is a lien on the real estate obtained by legal or equitable proceedings after the security interest was perfected by any method permitted by this Article.

(5) A security interest in fixtures, whether or not perfected, has priority over the conflicting interest of an encumbrancer or owner of the real estate where

(a) the encumbrancer or owner has consented in writing to the security interest or has disclaimed an interest in the goods as fixtures; or

(b) the debtor has a right to remove the goods as against the encumbrancer or owner. If the debtor's right terminates, the priority of the security interest continues for a reasonable time.

(6) Notwithstanding paragraph (a) of subsection (4) but otherwise subject to subsections (4) and (5), a security interest in fixtures is subordinate to a construction mortgage recorded before the goods become fixtures if the goods become fixtures before the completion of the construction. To the extent that it is given to refinance a construction mortgage, a mortgage has this priority to the same extent as the construction mortgage.

(7) In cases not within the preceding subsections, a security interest in fixtures is subordinate to the conflicting interest of an encumbrancer or owner of the related real estate who is not the debtor.

(8) When the secured party has priority over all owners and encumbrancers of the real estate, he may, on default, subject to the provisions of Part 5, remove his collateral from the real estate but he must reimburse any encumbrancer or owner of the real estate who is not the debtor and who has not otherwise agreed for the cost of repair of any physical injury, but not for any diminution in value of the real estate caused by the absence of the goods removed or by any necessity of replacing them. A person entitled to reimbursement may refuse permission to remove until the secured party gives adequate security for the performance of this obligation.

"§ 25-9-314. *Accessions.*—(1) A security interest in goods which attaches before they are installed in or affixed to other goods takes priority as to the goods installed or affixed (called in this section 'accessions') over the claims of all persons to the whole except as stated in subsection (3) and subject to G.S. 25-9-315(1).

(2) A security interest which attaches to goods after they become part of a whole is valid against all persons subsequently acquiring interests in the whole except as stated in subsection (3) but is invalid against any person with an interest in the whole at the time the security interest attaches to the goods who has not in writing consented to the security interest or disclaimed an interest in the goods as part of the whole.

(3) The security interests described in subsections (1) and (2) do not take priority over

(a) a subsequent purchaser for value of any interest in the whole; or

(b) a creditor with a lien on the whole subsequently obtained by judicial proceedings; or

(c) a creditor with a prior perfected security interest in the whole to the extent that he makes subsequent advances

if the subsequent purchase is made, the lien by judicial proceedings obtained or the subsequent advance under the prior perfected security interest is made or contracted for without knowledge of the security interest and before it is perfected. A purchaser of the whole at a foreclosure sale other than the holder of a perfected security interest purchasing at his own foreclosure sale is a subsequent purchaser within this section.

(4) When under subsections (1) or (2) and (3) a secured party has an interest in accessions which has priority over the claims of all persons who have interests in the whole, he may on default subject to the provisions of Part 5 remove his collateral from the whole but he must reimburse any encumbrancer or owner of the whole who is not the debtor and who has not otherwise agreed for the cost of repair of any physical injury but not for any diminution in value of the whole caused by the absence of the goods removed or by any necessity for replacing them. A person entitled to reimbursement may refuse permission to remove until the secured party gives adequate security for the performance of this obligation.

"§ 25-9-315. *Priority when goods are commingled or processed.*—(1) If a security interest in goods was perfected and subsequently the goods or a part thereof have become part of a product or mass, the security interest continues in the product or mass if

(a) the goods are so manufactured, processed, assembled or commingled that their identity is lost in the product or mass; or

(b) a financing statement covering the original goods also covers the product into which the goods have been manufactured, processed or assembled.

In a case to which paragraph (b) applies, no separate security interest in that part of the original goods which has been manufactured, processed or assembled into the product may be claimed under G.S. 25-9-314.

(2) When under subsection (1) more than one security interest attaches to the product or mass, they rank equally according to the ratio that the cost of the goods to which each interest originally attached bears to the cost of the total product or mass.

"§ 25-9-316. *Priority subject to subordination.*—Nothing in this Article prevents subordination by agreement by any person entitled to priority.

"§ 25-9-317. *Secured party not obligated on contract of debtor.*—The mere existence of a security interest or authority given to the debtor to dispose of or use collateral does not impose contract or tort liability upon the secured party for the debtor's acts or omissions.

"§ 25-9-318.—*Defenses against assignee; modification of contract after notification of assignment; term prohibiting assignment ineffective; identification and proof of assignment.*—(1) Unless an account debtor has made an enforceable agreement not to assert defenses or claims arising out of a sale as provided in G.S. 25-9-206 the rights of an assignee are subject to

(a) all the terms of the contract between the account debtor and assignor and any defense or claim arising therefrom; and

(b) any other defense or claim of the account debtor against the assignor which accrues before the account debtor receives notification of the assignment.

(2) So far as the right to payment or a part thereof under an assigned contract has not been fully earned by performance, and notwithstanding notification of the assignment, any modification of or substitution for the contract made in good faith and in accordance with reasonable commercial standards is effective against an assignee unless the account debtor has otherwise agreed but the assignee acquires corresponding rights under the modified or substituted contract. The assignment may provide that such modification or substitution is a breach by the assignor.

(3) The account debtor is authorized to pay the assignor until the account debtor receives notification that the amount due or to become due has been assigned and that payment is to be made to the assignee. A notification which does not reasonably identify the rights assigned is ineffective. If requested by the account debtor, the assignee must seasonably furnish reasonable proof that the assignment has been made and unless he does so the account debtor may pay the assignor.

(4) A term in any contract between an account debtor and an assignor is ineffective if it prohibits assignment of an account or prohibits creation of a security interest in a general intangible for money due or to become due or requires the account debtor's consent to such assignment or security interest.

"PART 4

"FILING

"§ 25-9-401. *Place of filing; erroneous filing; removal of collateral.*—(1) The proper place to file in order to perfect a security interest is as follows:

(a) when the collateral is equipment used in farming operations, or farm products, or accounts or general intangibles arising from or relating to the sale of farm products by a farmer, or consumer goods, then in the office of the Register of Deeds in the county of the debtor's residence or if the debtor is not a resident of this State then in the office of the Register of Deeds in the county where the goods are kept, and in addition when the collateral is crops growing or to be grown in the office of the Register of Deeds in the county where the land is located;

(b) when the collateral is timber to be cut or is minerals or the like (including oil and gas) or accounts subject to subsection (5) of G.S. 25-9-103, or when the financing statement is filed as a fixture filing

(G.S. 25-9-313) and the collateral is goods which are or are to become fixtures, then in the office of the Register of Deeds in the county where the land is located;

(c) in all other cases, in the office of the Secretary of State and in addition, if the debtor has a place of business in only one county of this State, also in the office of the Register of Deeds of such county, or, if the debtor has no place of business in this State, but resides in the State, also in the office of the Register of Deeds of the county in which he resides.

(2) A filing which is made in good faith in an improper place or not in all of the places required by this section is nevertheless effective with regard to any collateral as to which the filing complied with the requirements of this Article and is also effective with regard to collateral covered by the financing statement against any person who has knowledge of the contents of such financing statement.

(3) A filing which is made in the proper place in this State continues effective even though the debtor's residence or place of business or the location of the collateral or its use, whichever controlled the original filing, is thereafter changed.

(4) The rules stated in G.S. 25-9-103 determine whether filing is necessary in this State.

(5) For the purposes of this section, the residence of an organization is its place of business if it has one or its chief executive office if it has more than one place of business.

"§ 25-9-402. *Formal requisites of financing statement; amendments; mortgage as financing statement.*—(1) A financing statement is sufficient if it gives the names of the debtor and the secured party, is signed by the debtor, gives an address of the secured party from which information concerning the security interest may be obtained, gives a mailing address of the debtor and contains a statement indicating the types, or describing the items, of collateral. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches. When the financing statement covers crops growing or to be grown, the statement must indicate that the collateral is or includes crops and must contain a description of the real estate concerned. When the financing statement covers timber to be cut or covers minerals or the like (including oil and gas) or accounts subject to subsection (5) of G.S. 25-9-103, or when the financing statement is filed as a fixture filing (G.S. 25-9-313) and the collateral is goods which are or are to become fixtures, the statement must also comply with subsection (5). A copy of the security agreement is sufficient as a financing statement if it contains the above information and is signed by the debtor. A carbon, photographic or other reproduction of a security agreement or a financing statement is sufficient as a financing statement if the security agreement so provides or if the original has been filed in this State.

(2) A financing statement which otherwise complies with subsection (1) is sufficient when it is signed by the secured party instead of the debtor if it is filed to perfect a security interest in

(a) collateral already subject to a security interest in another jurisdiction when it is brought into this State, or when the debtor's location is changed to this State. Such a financing statement must state that the

collateral was brought into this State or that the debtor's location was changed to this State under such circumstances; or

(b) proceeds under G.S. 25-9-306 if the security interest in the original collateral was perfected. Such a financing statement must describe the original collateral; or

(c) collateral as to which the filing has lapsed; or

(d) collateral acquired after a change of name, identity or corporate structure of the debtor (subsection (7)).

(3) A form substantially as follows is sufficient to comply with subsection (1):

Name of debtor (or assignor)_____

Address_____

Name of secured party (or assignee)_____

Address_____

1. This financing statement covers the following types (or items) of property:

(Describe)_____

2. (If collateral is crops) The above described crops are growing or are to be grown on:

(Describe Real Estate)_____

3. (If applicable) The above goods are to become fixtures on*

*Where appropriate substitute either 'The above timber is standing on___' or 'The above minerals or the like (including oil and gas) or accounts will be financed at the wellhead or minehead of the well or mine located on..'

(Describe Real Estate)_____

(If the debtor does not have an interest of record) The name of a record owner is____.

4. (If products of collateral are claimed) Products of the collateral are also covered.

(use whichever is applicable) _____

Signature of Debtor (or Assignor)

_____

Signature of Secured Party (or Assignee)

(4) A financing statement may be amended by filing a writing signed by both the debtor and the secured party. An amendment does not extend the period of effectiveness of a financing statement. If any amendment adds collateral, it is effective as to the added collateral only from the filing date of the amendment. In this Article, unless the context otherwise requires, the term 'financing statement' means the original financing statement and any amendments.

(5) A financing statement covering timber to be cut or covering minerals of the like (including oil and gas) or accounts subject to subsection (5) of G.S. 25-9-103, or a financing statement filed as a fixture filing (G.S. 25-9-313) must contain a description of the real estate. If the debtor does not have an interest of record in the real estate, the financing statement must show the name of a record owner. A financing statement filed as a fixture filing (G.S. 25-9-313) must bear the statement "Collateral is or includes fixtures" or its substantial equivalent or have checked the appropriate box identifying "FIXTURES". If a copy of a security agreement is filed as a financing statement, as authorized by G.S. 25-9-402, to perfect security interests in fixtures, the secured party or other

filer shall stamp or print conspicuously on the face of the first page of such copy the legend "Collateral is or includes fixtures".

(6) A mortgage or deed of trust is effective as a financing statement filed as a fixture filing from the date of its recording if

(a) the goods are described in the mortgage or deed of trust by item or type; and

(b) the goods are or are to become fixtures related to the real estate described in the mortgage or deed of trust; and

(c) the mortgage or deed of trust complies with the requirements for a financing statement in this section; and

(d) the mortgage or deed of trust is duly recorded in the real estate records. Such a mortgage or deed of trust shall not be indexed or filed in the Uniform Commercial Code files. No fee with reference to such a mortgage or deed of trust is required other than the regular recording and satisfaction fees with respect to the mortgage or deed of trust.

(7) A financing statement sufficiently shows the name of the debtor if it gives the individual, partnership or corporate name of the debtor, whether or not it adds other trade names or names of partners. Where the debtor so changes his name or in the case of an organization its name, identity or corporate structure that a filed financing statement becomes seriously misleading, the filing is not effective to perfect a security interest in collateral acquired by the debtor more than four months after the change, unless a new appropriate financing statement is filed before the expiration of that time. A filed financing statement remains effective with respect to collateral transferred by the debtor even though the secured party knows of or consents to the transfer.

(8) A financing statement substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading.

(9) The Secretary of State shall have the authority to promulgate, issue and prescribe such financing statement forms and such other forms as he deems necessary to be used as standard forms for any filing contemplated by any section of this Article.

"§ 25-9-403. *What constitutes filing; duration of filing; effect of lapsed filing; duties of filing officer.*—(1) Presentation for filing of a financing statement and tender of the filing fee or acceptance of the statement by the filing officer constitutes filing under this Article.

(2) Except as provided in subsection (6), or in Article 12 of Chapter 44, a filed financing statement is effective for a period of five years from the date of filing. The effectiveness of a filed financing statement lapses on the expiration of the five year period unless a continuation statement is filed prior to the lapse. If a security interest perfected by filing exists at the time insolvency proceedings are commenced by or against the debtor, the security interest remains perfected until termination of the insolvency proceedings and thereafter for a period of sixty days or until expiration of the five year period, whichever occurs later. Upon lapse the security interest becomes unperfected, unless it is perfected without filing. If the security interest becomes unperfected upon lapse, it is deemed to have been unperfected as against a person who became a purchaser or lien creditor before lapse.

(3) A continuation statement may be filed by the secured party within six months prior to the expiration of the five year period specified in subsection (2).

Any such continuation statement must be signed by the secured party, identify the original statement by file number and state that the original statement is still effective. A continuation statement signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and complying with subsection (2) of G.S. 25-9-405, including payment of the required fee. Upon timely filing of the continuation statement, the effectiveness of the original statement is continued for five years after the last date to which the filing was effective whereupon it lapses in the same manner as provided in subsection (2) unless another continuation statement is filed prior to such lapse. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original statement. Unless a statute on disposition of public records provides otherwise, the filing officer may remove a lapsed statement from the files and destroy it immediately if he has retained a microfilm or other photographic record, or in other cases after one year after the lapse. The filing officer shall so arrange matters by physical annexation of financing statements to continuation statements or other related filings, or by other means, that if he physically destroys the financing statements of a period more than five years past, those which have been continued by a continuation statement or which are still effective under subsection (6) shall be retained.

(4) A filing officer shall mark each statement with a file number and with the date and hour of filing and shall hold the statement or a microfilm or other photographic copy thereof for public inspection. In addition the filing officer shall index the statement according to the name of the debtor and shall note in the index the file number and the address of the debtor given in the statement.

(5) The uniform fee for filing and indexing and for stamping a copy furnished by the secured party to show the date and place of filing for an original financing statement or for a continuation statement shall be four dollars ($4.00) for an approved statutory form statement as prescribed in G.S. 25-9-402 when printed on a standard-size form approved by the Secretary of State, and for all other statements, a five dollar ($5.00) minimum charge for up to and including three pages and one dollar ($1.00) per page for all over three pages. There shall be an additional fee of two dollars ($2.00) for each financing statement and continuation statement subject to subsection (5) of G.S. 25-9-402.

(6) A real estate mortgage which is effective as a fixture filing under subsection (6) of G.S. 25-9-402 remains effective as a fixture filing until the mortgage is redeemed or satisfied of record or its effectiveness otherwise terminates as to the real estate.

(7) When a financing statement covers minerals or the like (including oil and gas) or accounts subject to subsection (5) of G.S. 25-9-103, or is filed as a fixture filing, the filing officer, in addition to complying with subsection (4) of this section, shall

(a) index the statements in the Uniform Commercial Code index to financing statements so as to reflect the name of any record owner given in the statement. When the debtor is not the record owner, the filing officer shall enter the name of the record owner in the place designated for entry of the name of the debtor and shall stamp or print conspicuously beneath the surname of the record owner the legend "RECORD OWNER" and shall note therein the file number of the financing statement. When the debtor is also the record owner, the filing

officer shall make one index entry in the name of the debtor and shall stamp or print conspicuously beneath his surname the legend, "RECORD OWNER". The filing officer shall also:

(b) index the statements in the real estate indexes under the names of the debtor and any owner of record shown on the financing statement in the same fashion as if they were the mortgagors in a mortgage of the real estate described, and, to the extent that the law of this State provides for indexing of mortgages under the name of the mortgagee, under the name of the secured party as if he were the mortgagee thereunder, or where indexing is by description in the same fashion as if the financing statement were a mortgage of the real estate described.

"§ 25-9-404. *Termination statement.*—(1) If a financing statement covering consumer goods is filed on or after July 1, 1976, then within one month or within ten days following written demand by the debtor after there is no outstanding secured obligation and no commitment to make advances, incur obligations or otherwise give value, the secured party must file with each filing officer with whom the financing statement was filed, a termination statement to the effect that he no longer claims a security interest under the financing statement, which shall be identified by file number. In other cases whenever there is no outstanding secured obligation and no commitment to make advances, incur obligations or otherwise give value, the secured party must on written demand by the debtor send the debtor, for each filing officer with whom the financing statement was filed, a termination statement to the effect that he no longer claims a security interest under the financing statement, which shall be identified by file number. A termination statement signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and complying with subsection (2) of G.S. 25-9-405, including payment of the required fee. If the affected secured party fails to file such a termination statement as required by this subsection, or to send such a termination statement within ten days after proper demand therefor, he shall be liable to the debtor for one hundred dollars ($100.00), and in addition for any loss caused to the debtor by such failure.

(2) On presentation to the filing officer of such a termination statement he must note it in the Uniform Commercial Code index and also, if the financing statement to be terminated is subject to subsection (5) of G.S. 25-9-402, in the real estate index. The termination statement shall then remain in the file for such period of time as the financing statement or a continuation statement would be effective under the five-year life provided in G.S. 25-9-403, and then may be destroyed. The filing officer shall remove from the files, mark "terminated" and send or deliver to the secured party the financing statement and any continuation statement, statement of assignment or statement of release pertaining thereto. If the filing officer has received the termination statement in duplicate, he shall return one copy of the termination statement to the secured party stamped to show the time of receipt thereof.

(3) There shall be no fee charged for termination statements.

"§ 25-9-405. *Assignment of security interest; duties of filing officer; fees.*—(1) A financing statement may disclose an assignment of a security interest in the collateral described in the financing statement by indication in the financing statement of the name and address of the assignee or by an assignment itself or a copy thereof on the face or back of the statement. On presentation to the filing

officer of such a financing statement the filing officer shall mark the same as provided in G.S. 25-9-403(4). The uniform fee for filing, indexing and furnishing filing data for a financing statement so indicating an assignment shall be four dollars ($4.00) when submitted on a standard-size form approved by the Secretary of State, and for all other statements a five dollar ($5.00) minimum charge for up to and including three pages and one dollar ($1.00) per page for all over three pages.

(2) A secured party may assign of record all or part of his rights under a financing statement by the filing in the place where the original financing statement was filed of a separate written statement of assignment signed by the secured party of record and setting forth the name of the secured party of record and the debtor, the file number and the date of filing of the financing statement and the name and address of the assignee and containing a description of the collateral assigned. A copy of the assignment is sufficient as a separate statement if it complies with the preceding sentence. On presentation to the filing officer of such a separate statement, the filing officer shall mark such separate statement with the date and hour of the filing. He shall note the assignment on the Uniform Commerical Code index of the financing statement, and in the case of a fixture filing, or a filing covering timber to be cut, or covering minerals or the like (including oil and gas) or accounts subject to subsection (5) of G.S. 25-9-103, he shall index in the real estate index the assignment under the name of the assignor as grantor and, to the extent that the law of this State provides for indexing the assignment of a mortgage under the name of the assignee, he shall index the assignment of the financing statement under the name of the assignee. The uniform fee for filing, indexing and furnishing filing data about such a separate statement of assignment shall be three dollars ($3.00) when submitted on a standard-size form approved by the Secretary of State, and for all other statements a four dollar ($4.00) minimum charge for up to and including three pages and one dollar ($1.00) per page for all over three pages. When the assignment is of a financing statement subject to subsection (5) of G.S. 25-9-402, there shall be an additional fee of two dollars ($2.00). Notwithstanding the provisions of this subsection, an assignment of record of a security interest in a fixture contained in a mortgage effective as a fixture filing (subsection (6) of G.S. 25-9-402) may be made only by an assignment of the mortgage in the manner provided by the law of the State other than this Act.

(3) After the disclosure or filing of an assignment under this section, the assignee is the secured party of record.

"§ 25-9-406. *Release of collateral; duties of filing officer; fees.*—A secured party of record may, by his signed statement, release all or a part of any collateral described in a filed financing statement. The statement of release is sufficient if it contains a description of the collateral being released, the name and address of the debtor, the name and address of the secured party, and the file number of the financing statement. A statement of release signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and complying with subsection (2) of G.S. 25-9-405, including payment of the required fee. Upon presentation of such a statement of release to the filing officer he shall mark the statement with the hour and date of filing and shall note the same upon the margin of the index of the filing of the financing statement. The uniform fee for filing and noting such a statement of release

shall be three dollars ($3.00) when submitted on a standard-size form approved by the Secretary of State, and for all other statements a four dollar ($4.00) minimum charge for up to and including three pages and one dollar ($1.00) per page for all over three pages. There shall be an additional fee of two dollars ($2.00) when the statement of release affects a financing statement subject to subsection (5) of G.S. 25-9-402.

"§ 25-9-407. *Information from filing officer.*—(1) If the person filing any financing statement, termination statement, statement of assignment, or statement of release, furnishes the filing officer a copy thereof, the filing officer shall upon request note upon the copy the file number and date and hour of the filing of the original and deliver or send the copy to such person.

(2) Upon request of any person, the filing officer shall issue his certificate for which he shall not be liable showing whether there is on file on the date and hour stated therein, any presently effective financing statement naming a particular debtor and any statement of assignment thereof and if there is, giving the date and hour of filing of each such statement and the names and addresses of each secured party therein. The uniform fee for such a certificate shall be three dollars ($3.00) plus one dollar ($1.00) for each financing statement and for each statement of assignment reported therein. Upon request the filing officer shall furnish a copy of any filed financing statement or statement of assignment for a uniform fee of one dollar ($1.00) per page.

"§ 25-9-408. *Financing statements covering consigned or leased goods.*—A consignor or lessor of goods may file a financing statement using the terms 'consignor,' 'consignee,' 'lessor,' 'lessee' or the like instead of the terms specified in G.S. 25-9-402. The provisions of this Part shall apply as appropriate to such a financing statement but its filing shall not of itself be a factor in determining whether or not the consignment or lease is intended as security (G.S. 25-1-201 (37)). However, if it is determined for other reasons that the consignment or lease is so intended, a security interest of the consignor or lessor which attaches to the consigned or leased goods is perfected by such filing.

"Part 5

"DEFAULT

"§ 25-9-501. *Default; procedure when security agreement covers both real and personal property.*—(1) When a debtor is in default under a security agreement, a secured party has the rights and remedies provided in this Part and except as limited by subsection (3) those provided in the security agreement. He may reduce his claim to judgment, foreclose or otherwise enforce the security interest by any available judicial procedure. If the collateral is documents the secured party may proceed either as to the documents or as to the goods covered thereby. A secured party in possession has the rights, remedies and duties provided in G.S. 25-9-207. The rights and remedies referred to in this subsection are cumulative.

(2) After default, the debtor has the rights and remedies provided in this Part, those provided in the security agreement and those provided in G.S. 25-9-207.

(3) To the extent that they give rights to the debtor and impose duties on the secured party, the rules stated in the subsections referred to below may not be waived or varied except as provided with respect to compulsory disposition of collateral (subsection (3) of G.S. 25-9-504 and G.S. 25-9-505) and with respect to redemption of collateral (G.S. 25-9-506) but the parties may by agreement

determine the standards by which the fulfillment of these rights and duties is to be measured if such standards are not manifestly unreasonable:

(a) subsection (2) of G.S. 25-9-502 and subsection (2) of G.S. 25-9-504 insofar as they require accounting for surplus proceeds of collateral;

(b) subsection (3) of G.S. 25-9-504 and subsection (1) of G.S. 25-9-505 which deal with disposition of collateral;

(c) subsection (2) of G.S. 25-9-505 which deals with acceptance of collateral as discharge of obligation;

(d) G.S. 25-9-506 which deals with redemption of collateral; and

(e) subsection (1) of G.S. 25-9-507 which deals with the secured party's liability for failure to comply with this Part.

(4) If the security agreement covers both real and personal property, the secured party may proceed under this Part as to the personal property or he may proceed as to both the real and the personal property in accordance with his rights and remedies in respect of the real property in which case the provisions of this Part do not apply.

(5) When a secured party has reduced his claim to judgment the lien of any levy which may be made upon his collateral by virtue of any execution based upon the judgment shall relate back to the date of the perfection of the security interest in such collateral. A judicial sale, pursuant to such execution, is a foreclosure of the security interest by judicial procedure within the meaning of this section, and the secured party may purchase at the sale and thereafter hold the collateral free of any other requirements of this Article.

"§ 25-9-502. *Collection rights of secured party.*—(1) When so agreed and in any event on default the secured party is entitled to notify an account debtor or the obligor on an instrument to make payment to him whether or not the assignor was theretofore making collections on the collateral, and also to take control of any proceeds to which he is entitled under G.S. 25-9-306.

(2) A secured party who by agreement is entitled to charge back uncollected collateral or otherwise to full or limited recourse against the debtor and who undertakes to collect from the account debtors or obligors must proceed in a commercially reasonable manner and may deduct his reasonable expenses of realization from the collections. If the security agreement secures an indebtedness, the secu red party must account to the debtor for any surplus, and unless otherwise agreed, the debtor is liable for any deficiency. But, if the underlying transaction was a sale of accounts or chattel paper, the debtor is entitled to any surplus or is liable for any deficiency only if the security agreement so provides.

"§ 25-9-503. *Secured party's right to take possession after default.*—Unless otherwise agreed a secured party has on default the right to take possession of the collateral. In taking possession a secured party may proceed without judicial process if this can be done without breach of the peace or may proceed by action. If the security agreement so provides the secured party may require the debtor to assemble the collateral and make it available to the secured party at a place to be designated by the secured party which is reasonably convenient to both parties. Without removal a secured party may render equipment unusable, and may dispose of collateral on the debtor's premises under G.S. 25-9-504.

"§ 25-9-504. *Secured party's right to dispose of collateral after default; effect of disposition.*—(1) A secured party after default may sell, lease or otherwise dispose of any or all of the collateral in its then condition or following any

commercially reasonable preparation or processing. Any sale of goods is subject to the Article on Sales (Article 2). The proceeds of disposition shall be applied in the order following to

(a) the reasonable expenses of retaking, holding, preparing for sale or lease, selling, leasing and the like and, to the extent provided for in the agreement and not prohibited by law, the reasonable attorneys' fees and legal expenses incurred by the secured party;

(b) the satisfaction of indebtedness secured by the security interest under which the disposition is made;

(c) the satisfaction of indebtedness secured by any subordinate security interest in the collateral if written notification of demand therefor is received before distribution of the proceeds is completed. If requested by the secured party, the holder of a subordinate security interest must seasonably furnish reasonable proof of his interest, and unless he does so, the secured party need not comply with his demand.

(2) If the security interest secures an indebtedness, the secured party must account to the debtor for any surplus, and, unless otherwise agreed, the debtor is liable for any deficiency. But if the underlying transaction was a sale of accounts or chattel paper, the debtor is entitled to any surplus or is liable for any deficiency only if the security agreement so provides.

(3) Disposition of the collateral may be by public or private proceedings and may be made by way of one or more contracts. Sale or other disposition may be as a unit or in parcels and at any time and place and on any terms but every aspect of the disposition including the method, manner, time, place and terms must be commercially reasonable. Unless collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, reasonable notification of the time and place of any public sale or reasonable notification of the time after which any private sale or other intended disposition is to be made shall be sent by the secured party to the debtor, if he has not signed after default a statement renouncing or modifying his right to notification of sale. In the case of consumer goods no other notification need be sent. In other cases notification shall be sent to any other secured party from whom the secured party has received (before sending his notification to the debtor or before the debtor's renunciation of his rights) written notice of a claim of an interest in the collateral. The secured party may buy at any public sale and if the collateral is of a type customarily sold in a recognized market or is of a type which is the subject of widely distributed standard price quotations he may buy at private sale.

(4) When collateral is disposed of by a secured party after default, the disposition transfers to a purchaser for value all of the debtor's rights therein, discharges the security interest under which it is made and any security interest or lien subordinate thereto. The purchaser takes free of all such rights and interests even though the secured party fails to comply with the requirements of this Part or of any judicial proceedings

(a) in the case of a public sale, if the purchaser has no knowledge of any defects in the sale and if he does not buy in collusion with the secured party, other bidders or the person conducting the sale; or

(b) in any other case, if the purchaser acts in good faith.

(5) A person who is liable to a secured party under a guaranty, endorsement, repurchase agreement or the like and who receives a transfer of collateral from

the secured party or is subrogated to his rights has thereafter the rights and duties of the secured party. Such a transfer of collateral is not a sale or disposition of the collateral under this Article.

"§ 25-9-504.1. *Payment of surplus to clerk.*—(1) Any surplus remaining after the application of the proceeds of the sale or other disposition as set out in G.S. 25-9-504 (1) and (2) shall be paid to the person or persons entitled thereto, if the party who made the sale knows who is entitled thereto. Otherwise, the surplus shall be paid to the clerk of the superior court of the county where the sale or other disposition was held, if the disposition took place in this State. If the sale or other disposition took place outside this State, then the secured party or person making the sale or other disposition shall pay said surplus money to the clerk of superior court of any county in this State in which the secured party or other party conducting the said sale or disposition does business. Said payment discharges the secured party from liability to the extent of the amount so paid. Said clerk of superior court shall accept such surplus from said secured party and shall execute a receipt therefor.

(2) Said clerk of superior court is liable on his official bond for the safekeeping of money so received until it is paid to the party or parties entitled thereto or until it is paid out under the order of a court of competent jurisdiction.

"§ 25-9-504.2. *Special proceedings to determine ownership of surplus.*—(1) A special proceeding may be instituted before the clerk of superior court by any person claiming any portion of the surplus paid into the clerk's office under G.S. 25-9-504.1, to determine who is entitled thereto.

(2) All other persons who have filed with the clerk notice of their claim to the aforesaid surplus or any part thereof, or who, as far as the petitioner(s) know, asserts any claim to said surplus or any part thereof, shall be made defendants in the proceeding.

(3) If any answer is filed raising issues of fact as to the ownership of the surplus (money), the proceeding shall be transferred to the civil issue docket of the district or superior court for trial.

(4) The court may, in its discretion, allow a reasonable attorney's fee for any attorney appearing in behalf of the party or parties who prevail, to be paid out of the funds in controversy, and shall tax all costs against the losing party or parties who have asserted a claim to the fund by petition or answer.

"§ 25-9-505. *Compulsory disposition of collateral; acceptance of the collateral as discharge of obligation.*—(1) If the debtor has paid sixty percent of the cash price in the case of a purchase money security interest in consumer goods or sixty percent of the loan in the case of another security interest in consumer goods, and has not signed after default a statement renouncing or modifying his rights under this Part a secured party who has taken possession of collateral must dispose of it under G.S. 25-9-504, and if he fails to do so within ninety days after he takes possession, the debtor at his option may recover in conversion or under G.S. 25-9-507(1) on secured party's liability.

(2) In any other case involving consumer goods or any other collateral a secured party in possession may, after default, propose to retain the collateral in satisfaction of the obligation. Written notice of such proposal shall be sent to the debtor if he has not signed after default a statement renouncing or modifying his rights under this subsection. In the case of consumer goods no other notice need be given. In other cases notice shall be sent to any other secured party from

whom the secured party has received (before sending his notice to the debtor or before the debtor's renunciation of his rights) written notice of a claim of an interest in the collateral. If the secured party receives objection in writing from a person entitled to receive notification within twenty-one days after the notice was sent, the secured party must dispose of the collateral under G.S. 25-9-504. In the absence of such written objection the secured party may retain the collateral in satisfaction of the debtor's obligation.

"§ 25-9-506. *Debtor's right to redeem collateral.*—At any time before the secured party has disposed of collateral or entered into a contract for its disposition under G.S. 25-9-504 or before the obligation has been discharged under G.S. 25-9-505(2) the debtor or any other secured party may unless otherwise agreed in writing after default redeem the collateral by tendering fulfillment of all obligations secured by the collateral as well as the expenses reasonably incurred by the secured party in retaking, holding and preparing the collateral for disposition, in arranging for the sale, and to the extent provided in the agreement and not prohibited by law, his reasonable attorneys' fees and legal expenses.

"§ 25-9-507. *Secured party's liability for failure to comply with this Part.*—(1) If it is established that the secured party is not proceeding in accordance with the provisions of this Part disposition may be ordered or restrained on appropriate terms and conditions. If the disposition has occurred the debtor or any person entitled to notification or whose security interest has been made known to the secured party prior to the disposition has a right to recover from the secured party any loss caused by a failure to comply with the provisions of this Part. If the collateral is consumer goods, the debtor has a right to recover in any event an amount not less than the credit service charge plus ten percent of the principal amount of the debt or the time price differential plus ten percent of the cash price.

(2) The fact that a better price could have been obtained by a sale at a different time or in a different method from that selected by the secured party is not of itself sufficient to establish that the sale was not made in a commercially reasonable manner. If the secured party either sells the collateral in the usual manner in any recognized market therefor or if he sells at the price current in such market at the time of his sale or if he has otherwise sold in conformity with reasonable commercial practices among dealers in the type of property sold he has sold in a commercially reasonable manner. The principles stated in the two preceding sentences with respect to sales also apply as may be appropriate to other types of disposition. A disposition which has been approved in any judicial proceeding or by any bona fide creditors' committee or representative of creditors shall conclusively be deemed to be commercially reasonable, but this sentence does not indicate that any such approval must be obtained in any case nor does it indicate that any disposition not so approved is not commercially reasonable.

"§ 25-9-508. *Application of statute of limitations to serial notes.*—When a series of notes maturing at different times is secured by a security agreement and the exercise of the power of sale or foreclosure for the satisfaction of one or more of the notes is barred by the statute of limitations, that fact does not bar the exercise of the power of sale or foreclosure for the satisfaction of indebtedness represented by other notes of the series not so barred.

"§ 25-9-509. *Power of sale barred when foreclosure barred.*—(1) Except as provided in subsection (2), no person shall exercise any power of sale contained in any security agreement, or provided by statute, when an action to foreclose the lien contained in said security agreement is barred by the statute of limitations.

(2) If a sale pursuant to a power of sale contained in a security agreement, or provided by statute, is commenced within the time allowed by the statute of limitations to foreclose the lien of such security agreement, the sale may be completed, although such completion is effected after the time when commencement of an action to foreclose would be barred by the statute. For the purpose of this section, a sale is commenced when the notice of public sale is first posted or published as provided in this Article.

"PART 6

"PUBLIC SALE PROCEDURES

"§ 25-9-601. *Disposition of collateral by public sale.*—Disposition of collateral by public proceedings as permitted by G.S. 25-9-504 may be made in accordance with the provisions of this Part. The provisions of this Part are not mandatory for disposition by public proceedings, but any disposition of the collateral by public sale wherein the secured party has substantially complied with the procedures provided in this Part shall conclusively be deemed to be commercially reasonable in all aspects.

"§ 25-9-602. *Contents of notice of sale.*—The notice of sale shall substantially:

(a) Refer to the security agreement pursuant to which the sale is held;

(b) Designate the date, hour and place of sale consistent with the provisions of the security agreement and the provisions found in Part 6 of Article 9 of Chapter 25 of the General Statutes;

(c) Describe personal property to be sold substantially as it is described in the security agreement pursuant to which the power of sale is being exercised, and may add such further description as will acquaint bidders with the nature of the property;

(d) State the terms of the sale provided by the security agreement pursuant to which the sale is held, including the amount of the cash deposit, if any, to be made by the highest bidder at the sale;

(e) Include any other provisions required by the security agreement to be included therein; and

(f) State that the property will be sold subject to taxes and special assessments if it is to be so sold.

"§ 25-9-603. *Posting and mailing notice of sale.*—(1) In each public sale conducted hereunder, the notice of sale shall be posted on a bulletin board provided for the posting of such legal notices, in the courthouse, in the county in which the sale is to be held, for at least five days immediately preceding the sale.

(2) In addition to the posting of notice required by subsection (1), the secured party or other party holding such public sale shall, at least five days before the date of sale, mail by registered or certified mail a copy of the notice of sale to each debtor obligated under the security agreement:

(a) At the actual address of the debtors, if known to the secured party, or

(b) At the address, if any, furnished the secured party, in writing, by the debtors, or otherwise at the last known address.

(3) In the case of consumer goods, no other notification need be sent. In other cases, in addition to mailing a copy of the notice of sale to each debtor, the secured party shall also mail a copy of said notice by registered or certified mail to any other secured party from whom the secured party has received (before sending the notice of sale to the debtor(s)) written notice of a claim of an interest in the collateral.

"§ 25-9-604. *Exception as to perishable property.*—If, in the opinion of a secured party about to conduct a public sale of personal property hereunder, the property is perishable because subject to rapid deterioration or threatens to decline speedily in value, he may report such fact, together with a description of the property to the clerk of the superior court of the county in which the property is to be sold, and apply for authority to sell the property at an earlier date than is provided in this Article. Upon the clerk's determination that the property is such perishable or speedily depreciating property, he shall order a sale thereof to be held at such time and place and upon such notice, if any, as he deems advisable.

"§ 25-9-605. *Postponement of public sale.*—(1) Any person exercising a power of sale or conducting a public sale hereunder may postpone the sale to a day certain not later than six days, exclusive of Sunday, after the original date for the sale:

(a) When there are no bidders, or

(b) When, in his judgment, the number of prospective bidders at the sale is substantially decreased by inclement weather or by any casualty, or

(c) When there are so many other sales advertised to be held at the same time and place as to make it inexpedient and impracticable in his judgment, to hold the sale on that day, or

(d) When he is unable to hold the sale because of illness or for other good reason, or

(e) When other good cause exists.

(2) Upon postponement of a public sale, the person exercising the power of sale shall personally, or through his agent or attorney:

(a) At the time and place advertised for the sale, publicly announce the postponement thereof, and

(b) On the same day, attach to or enter on the original notice of sale or a copy thereof, posted on the bulletin board provided therefor, as provided by G.S. 25-9-603, a notice of the postponement.

(3) The posted notice of postponement shall:

(a) State that the public sale is postponed,

(b) State the hour and date to which the public sale is postponed,

(c) Substantially state the reason for the postponement, and

(d) Be signed by the person authorized to hold the public sale, or by his agent or attorney.

(4) If a public sale is not held at the time fixed therefor and is not postponed as provided by this section, or if a postponed sale is not held at the time fixed therefor, the person authorized to hold the public sale may readvertise the property in the same manner as he was required to advertise the sale which was not held, and may hold a public sale at such later date as is fixed in the new notice of sale.

"§ 25-9-606. *Procedure upon dissolution of order restraining or enjoining sale.*—(1) When, before the date fixed for a sale, a judge dissolves an order

restraining or enjoining the sale, he may, if the required notice of sale has been given, as provided in G.S. 25-9-603, provide by order that the public sale shall be held without additional notice at the time and place originally fixed therefor; or he may, in his discretion, make an order with respect thereto as provided in subsection (2).

(2) When, after the date fixed for a public sale, a judge dissolves an order restraining or enjoining said sale, he shall, by order, fix the time and place for the sale to be held upon notice to be given and in such manner and for such length of time as he deems advisable.

"§ 25-9-607. *Disposition of proceeds of sale.*—The proceeds of any sale or other disposition of the collateral shall be applied by the person making the sale in the manner prescribed by G.S. 25-9-504 (1) and (2), G.S. 25-9-504.1 and G.S. 25-9-504.2."

Sec. 8. Article 11, Effective Date and Transition Provisions, is hereby added to Chapter 25 of the General Statutes of North Carolina, Uniform Commercial Code, immediately following Article 10, G.S. 25-10-101 through G.S. 25-10-106, thereof, and is hereby enacted to read as follows:

"ARTICLE II

"EFFECTIVE DATE AND TRANSITION PROVISIONS

"§ 25-11-101. *Effective date.*—This act shall become effective at 12:01 a.m. on July 1, 1976.

"§ 25-11-101.1. *Definitions.*—(1) As used in this Article, 'Old Article 9' means: G.S. 25-1-105, G.S. 25-1-201(9), G.S. 25-1-201(37), G.S. 25-2-107, G.S. 25-5-116, and Article 9 of Chapter 25 of the General Statutes of North Carolina, Uniform Commercial Code, as they are in effect on June 30, 1976, immediately prior to the effective date of this act.

(2) As used in this Article, 'new Article 9' means: G.S. 25-1-105, G.S. 25-1-201(9), G.S. 25-1-201(37), G.S. 25-2-107, G.S. 25-5-116, and Article 9 of Chapter 25 of the General Statutes of North Carolina, Uniform Commercial Code, as said provisions are enacted pursuant to this act, as of July 1, 1976, its effective date.

"§ 25-11-102. *Preservation of old transition provisions.*—The provisions of Article 10 of Chapter 25 of the General Statutes of North Carolina, Uniform Commercial Code, G.S. 25-10-101 through G.S. 25-10-106, thereof shall continue to apply to new Article 9, and for this purpose the old Article 9 and the new Article 9 shall be considered one continuous statute.

"§ 25-11-103. *Transition to new Article 9; general rule.*—(1) Transactions validly entered into after midnight on June 30, 1967, and before July 1, 1976, and which were subject to the provisions of old Article 9 and which would be subject to this act as amended if they had been entered into after the effective date of new Article 9 and the rights, duties and interests following from such transactions remain valid after the latter date and may be terminated, completed, consummated or enforced as required or permitted by the new Article 9.

(2) Security interests arising out of such transactions which are perfected when new Article 9 becomes effective shall remain perfected until they lapse as provided in new Article 9, and may be continued as permitted by new Article 9, except as stated in G.S. 25-11-105.

"§ 25-11-104. *Transition provisions on change of requirement of filing.*—A security interest for the perfection of which filing or the taking of possession was

required under old Article 9 and which attached prior to the effective date of new Article 9 but was not perfected shall be deemed perfected on the effective date of new Article 9 if new Article 9 permits perfection without filing or authorizes filing in the office or offices where prior ineffective filing was made.

"§ 25-11-105. *Transition provisions on change of place of filing.*—(1) A financing statement or continuation statement filed prior to July 1, 1976, which shall not have lapsed prior to July 1, 1976, shall remain effective for the period provided in the old Article 9, but not less than five years after the filing.

(2) With respect to any collateral acquired by the debtor subsequent to the effective date of new Article 9, any effective financing statement or continuation statement described in this section shall apply only if the filing or filings are in the office or offices that would be appropriate to perfect the security interests in the new collateral under new Article 9.

(3) The effectiveness of any financing statement or continuation statement filed prior to July 1, 1976, may be continued by a continuation statement as permitted by new Article 9, except that if new Article 9 requires a filing in an office where there was no previous financing statement, a new financing statement conforming to G.S. 25-11-106 shall be filed in that office.

(4) If the record of a mortgage of, or a deed of trust on, real estate would have been effective as a fixture filing of goods described therein if new Article 9 had been in effect on the date of recording the mortgage or deed of trust, the mortgage or deed of trust shall be deemed effective as a fixture filing as to such goods under subsection (6) of G.S. 25-9-402 of the new Article 9 on the effective date of new Article 9.

"§ 25-11-106. *Required refilings.*—(1) If a security interest is perfected or has priority when this act takes effect as to all persons or as to certain persons without any filing or recording, and if the filing of a financing statement would be required for the perfection or priority of the security interest against those persons under new Article 9, the perfection and priority rights of the security interest continue until three years after the effective date of new Article 9. The perfection will then lapse unless a financing statement is filed as provided in subsection (4) or unless the security interest is perfected otherwise than by filing.

(2) If a security interest is perfected when new Article 9 takes effect under a law other than Chapter 25 of the General Statutes, Uniform Commercial Code, which requires no further filing, refiling or recording to continue its perfection, perfection continues until and will lapse three years after new Article 9 takes effect, unless a financing statement is filed as provided in subsection (4) or unless the security interest is perfected otherwise than by filing, or unless under subsection (3) of G.S. 25-9-302 the other law continues to govern filing.

(3) If a security interest is perfected by a filing, refiling or recording under a law repealed by this act which required further filing, refiling or recording to continue its perfection, perfection continues and will lapse on the date provided by the law so repealed for such further filing, refiling or recording unless a financing statement is filed as provided in subsection (4) or unless the security interest is perfected otherwise than by filing.

(4) A financing statement may be filed within six months before the perfection of a security interest which would otherwise lapse. Any such financing statement may be signed by either the debtor or the secured party. It must identify the security agreement, statement or notice (however

denominated in any statute or other law repealed or modified by this act), state the office where and the date when the last filing, refiling or recording, if any, was made with respect thereto, and the filing number, if any, or book and page, if any, of recording and further state that the security agreement, statement or notice, however denominated, in another filing office under Chapter 25, Uniform Commercial Code, or under any statute or other law repealed or modified by this act is still effective. G. S. 25-9-401 and G. S. 25-9-103 determine the proper place to file such a financing statement. Except as specified in this subsection, the provisions of G. S. 25-9-403(3) for continuation statements apply to such a financing statement.

"§ 25-11-107. *Transition provisions as to priorities.*—Except as otherwise provided in Article 11, old Article 9 shall apply to any questions of priority if the positions of the parties were fixed prior to the effective date of new Article 9. In other cases questions of priority shall be determined by new Article 9.

"§ 25-11-108. *Presumption that rule of law continues unchanged.*—Unless a change in law has clearly been made, the provisions of new Article 9 shall be deemed declaratory of the meaning of the old Article 9."

Sec. 9. All laws and clauses of laws which are in conflict with this act as of its effective date are hereby repealed.

Sec. 10. This act shall become effective July 1, 1976.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

S. B. 944 CHAPTER 863

AN ACT TO EXEMPT THE BOARD OF TRANSPORTATION, DIVISION OF HIGHWAYS, AND THE DIVISION OF MOTOR VEHICLES FROM THE ADMINISTRATIVE PROCEDURE ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-1 is hereby amended by adding a new paragraph thereto to read as follows:

"Articles 2 and 3 of G.S. Chapter 150A shall not apply to the Board of Transportation, the Division of Highways, and Division of Motor Vehicles."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 977 CHAPTER 864

AN ACT TO AMEND CHAPTER 122 OF THE GENERAL STATUTES TO REQUIRE THE LICENSING OF LOCAL MENTAL HEALTH FACILITIES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 122 of the General Statutes is hereby amended by adding the following Article immediately following Article 2D, such new Article to read as follows:

"ARTICLE 2E.

"Licensing of Local Mental Health Facilities.

"§ 122-35.28. *Requirement for licensing of local mental health facilities.*—Any local mental health facility, of whatsoever nature, which is operated under

the provisions of Chapter 122 of the General Statutes is required to obtain a license permitting such operation. The Commission for Mental Health Services shall promulgate the rules, regulations and standards governing the operation and licensing of these facilities. The Department of Human Resources shall be responsible for administrative support of the commission in formulating these rules, regulations and standards and for their enforcement. The Department of Human Resources shall conduct required inspections of these facilities and shall issue or deny licenses to these facilities in accordance with the rules, regulations and standards adopted by the commission.

"§ 122-35.29. *Appeal from the denial or revocation of a license.*—Any local mental health facility as described in G.S. 122-35.28 which has been denied a license or whose license has been revoked by the Department of Human Resources shall be notified in writing of said denial or revocation and shall be entitled to a hearing before the Commission for Mental Health Services upon filing with the Commission within 30 days after the challenged decision a written appeal from the adverse decision of the department. All hearings shall be open to the public and the decision of the commission on the matter shall be transmitted to the appellant within a reasonable period of time after such hearing."

Sec. 2. This act shall become effective July 1, 1976.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 632 CHAPTER 865

AN ACT RELATING TO ASSIGNMENT OF OFFICIAL LICENSE PLATES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-81 is hereby amended by rewriting to read as follows:

"§ 20-81. *Official license plates.*—Official license plates issued to State officials shall be subject to the same fees and transfer provisions as provided in G.S. 20-87 and G.S. 20-64 respectively and shall be issued as follows:

1. Senate and Congressional. Official plates issued to the United States Senators shall bear the words 'U. S. Senate', be numbered 1 and 2, and shall be issued on the basis of seniority. The official plates issued to United States Congressmen shall bear the words ' U. S. House' and be numbered 1 through 11 and shall be issued on the basis of congressional districts.

2. North Carolina General Assembly. Official plates issued to members of the North Carolina State Senate or House of Representatives shall bear the words 'Senate' or 'House' followed by the Senator's or Representative's assigned seat number.

3. Judicial. Official plates issued to the Judiciary shall be issued as follows:

(a) Supreme Court. Official plates shall be issued upon request to the Chief Justice and Associate Justices of the Supreme Court of North Carolina which shall bear the letter 'J' followed by a numerical designation from 1 through 7. The Chief Justice upon request shall be issued the plate bearing number 1 and the remaining plates shall be issued upon request to the Associate Justices on the basis of seniority. Retired members of the Supreme Court shall receive an official plate upon request similar in every respect to the plates issued to the regular justices bearing the numerical designation of his or her position of

seniority at the time of retirement except the numerical designation shall be followed with the letter 'X'. Official plates J-8 and J-9 in this series shall be reserved. Official plate J-10 shall be issued upon request to the Administrative Office of the Courts.

(b) Court of Appeals. Official plates issued to the Chief Judge and Associate Judges of the North Carolina Court of Appeals shall bear the letter 'J' followed by a numerical designation from 11 through 19. The Chief Judge shall be issued upon request the official plate bearing number 11 and the remaining plates shall be issued upon request to the Associate Judges on the basis of seniority. Retired members of the North Carolina Court of Appeals serving as emergency judges shall receive an official plate upon request similar in every respect to the plates issued to regular judges bearing the numerical designation of his or her position as to seniority at the time of retirement except the numerical designation shall be followed with the letter 'X'. Official plate J-20 shall be reserved.

(c) Superior Court. Official plates shall be issued to the various senior resident judges of the superior court upon request and shall bear the letter 'J' followed by a numerical designation equal to the sum of the numerical designation of their respective judicial districts plus 20. Where there is more than one resident judge of the superior court within a district, official plates shall upon request be issued to other resident judges serving within the district similar to the official plate to be issued upon request to the senior resident judge of the district except the numerical designation on each subsequent plate shall be followed by a letter of the alphabet beginning with the letter 'A', which shall be indicative of the recipient's position as to seniority.

(d) Superior Court. Special judges and emergency judges of the superior court shall be issued an official plate bearing the letter 'J' with a numerical designation as designated by the Administrative Office of the Courts with the approval of the Chief Justice of the Supreme Court of North Carolina. Retired judges shall be issued a similar plate except that the numerical designation shall be followed by the letter 'X'.

(e) U. S. District Court Judges. Official plates shall be issued upon request to the district judges of the United States District Court serving in North Carolina and shall bear the letter 'J' and a numerical designation as designated by the Administrative Office of the Courts with the approval of the Chief Justice of the Supreme Court of North Carolina. Retired judges shall be issued a similar plate except that the numerical designation shall be followed by the letter 'X'.

(f) North Carolina District Court Judges. An official plate shall be issued upon request to each chief judge of the district court of North Carolina which shall bear the letter 'J' followed by a numerical designation equal to the sum of the numerical designation of their respective judicial districts plus 100 and all other judges of the district court serving within the same judicial district shall, upon request, be issued an official plate bearing the same letter and numerical designation as appears on the official plate issued to the chief district judge of the judicial district except that on each subsequent official plate issued within a district, the numerical designation shall be followed by a letter of the alphabet beginning with the letter 'A' which shall be indicative of the recipient's position as to seniority. Retired judges shall be issued a similar plate except that the numerical designation shall be followed by the letter 'X'.

(g) District Attorneys. Official plates shall be issued upon request to the various district attorneys which plate shall bear the letters 'DA' followed by a numerical designation indicative of his solicitorial district.

4. Elective and Appointive. Official plates issued to elective and appointive members of State government shall bear number designations beginning with number 1 which shall be assigned to the Governor of North Carolina and numbers following thereafter shall be issued in the following order:

2. Lieutenant Governor of North Carolina
3. Speaker of the House of Representatives
4. President Pro Tempore of the Senate
5. Secretary of State
6. State Auditor
7. State Treasurer
8. Superintendent of Public Instruction
9. Attorney General
10. Commissioner of Agriculture
11. Commissioner of Labor
12. Commissioner of Insurance
13. (Not to be assigned)
14. Speaker Pro Tempore of the House
15. Legislative Services Officer
16. Secretary of Administration
17. Secretary of Natural and Economic Resources
18. Secretary of Revenue
19. Secretary of Human Resources
20. Secretary of Commerce
21. Secretary of the Department of Correction
22. Secretary of Cultural Resources
23. Secretary of Military and Veterans' Affairs

24-29. To be reserved for and assigned to members of the Governor's staff at the direction of the Governor.

30-41. To be reserved for and assigned to members of the Advisory Budget Commission at the direction of the Governor.

42. Chairman, State Board of Education
43. President, UNC System
44. Chairman, ABC Board
45. Member, ABC Board
46. Member, ABC Board
47. Assistant Commissioner of Agriculture
48. Assistant Commissioner of Agriculture
49. Deputy Secretary of State
50. Deputy State Treasurer
51. Assistant State Treasurer
52. Deputy Commissioner, Department of Labor
53. Chief Deputy, Department of Insurance
54. Assistant Commissioner of Insurance

55-65. Shall be reserved for and assigned to members of the Attorney General's staff, deputies and assistants only. Specific number assignments shall be at the direction of the Attorney General.

66-70. Shall be reserved for and assigned, upon request, to members of the

Utilities Commission. Number 66 to be upon request assigned to the Chairman of the Utilities Commission with the remaining numbers to be assigned upon request to the remaining members of the Utilities Commission on the basis of seniority.

71-76. Shall be reserved for and assigned upon request to members of the Parole Commission. Number 71 to be upon request assigned to the Chairman of the Parole Commission with the remaining numbers to be assigned upon request to the remaining members of the Parole Commission on the basis of seniority.

77-85. Shall be reserved for and assigned upon request to members of the State Ports Authority. Specific number assignments to such members shall be at the direction of the Governor.

86-109. Shall be reserved for and assigned upon request to members of the Board of Natural and Economic Resources. Specific number assignments to such members shall be at the direction of the Governor.

5. Department of Transportation. Official plates shall be issued upon request to various members of divisions of the Department of Transportation which shall bear the letters 'DOT' followed by a number designation from 1 through 85. Specific number assignments to members of divisions of the Department of Transportation shall be at the direction of the Governor."

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 1177 CHAPTER 866

AN ACT TO MAKE CERTAIN TECHNICAL AND CONFORMING AMENDMENTS RELATIVE TO THE MOTOR VEHICLE SAFETY AND FINANCIAL RESPONSIBILITY ACT OF 1953.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-279.21(b)(3), as the same appears in the 1975 Replacement Volume 1C of the General Statutes, is hereby amended by adding a new paragraph at the end thereof to read as follows:

"For purposes of this section 'persons insured' means the named insured and, while resident of the same household, the spouse of any such named insured and relatives of either, while in a motor vehicle or otherwise, and any person who uses with the consent, expressed or implied, of the named insured, the motor vehicle to which the policy applies and a guest in such motor vehicle to which the policy applies or the personal representative of any of the above or any other person or persons in lawful possession of such motor vehicle."

Sec. 2. G.S. 20-279.21(f)(1), as the same appears in the 1975 Replacement Volume 1C of the General Statutes, is hereby amended by deleting from the first sentence thereof the second comma and the following language between the first and second commas: "and with respect to policies of motor vehicle liability insurance written under the North Carolina assigned risk plan".

Sec. 3. G.S. 20-279.21(f)(1), as the same appears in the 1975 Replacement Volume 1C of the General Statutes is further amended by rewriting the second sentence thereof to read as follows:

"As to policies issued to insureds in this State under the assigned risk plan or through the North Carolina Motor Vehicle Reinsurance Facility, a default

judgment taken against such an insured shall not be used as a basis for obtaining judgment against the insurer unless counsel for the plaintiff has forwarded to the insurer, or to one of its agents, by registered or certified mail with return receipt requested a copy of summons, complaint, or other pleadings, filed in the action."

Sec. 4. G.S. 20-279.21(f)(1), as the same appears in the 1975 Replacement Volume 1C of the General Statutes, is further amended by deleting from the last paragraph therefrom, the words "assigned risk".

Sec. 5. G.S. 1B-3(e), as the same appears in the 1974 Cumulative Supplement to Volume 1B of the General Statutes, is hereby amended by deleting the period from the last sentence thereof and by adding the following "unless the judgment shall specifically provide otherwise."

Sec. 6. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 1256 CHAPTER 867

AN ACT TO AMEND G.S. 62-10(e) CONCERNING VACANCIES IN THE CHAIRMANSHIP OF THE UTILITIES COMMISSION AND VACANCIES IN THE MEMBERSHIP OF SAID COMMISSION ARISING DURING LEGISLATIVE SESSIONS; TO AMEND G.S. 62-21 CONCERNING UTILIZATION OF STAFF ATTORNEYS TO ADVISE PANEL CHAIRMEN; TO AMEND G.S. 62-37 CONCERNING INDEPENDENT AUDITS AT THE EXPENSE OF PUBLIC UTILITIES; TO AMEND G.S. 62-78 AND G.S. 62-81 CONCERNING ORAL ARGUMENTS IN LIEU OF BRIEFS; AND TO AMEND G.S. 62-134 CONCERNING THE RIGHT OF PUBLIC INTERVENTION IN FUEL COST PROCEEDINGS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 62-10(e), as rewritten by Chapter 243 of the 1975 Session Laws, is hereby amended by adding thereto at the end thereof the following sentence:

"Upon death or resignation of the commissioner appointed as chairman, the Governor shall designate the chairman from the remaining commissioners and appoint a successor as hereinafter provided to fill the vacancy on the commission."

Sec. 2. Subsections (g) and (h) of G.S. 62-10, as rewritten by Chapter 243 of the 1975 Session Laws, are hereby renumbered as subsections (h) and (i), and the last sentence of subsection (f) of G.S. 62-10 is hereby designated as subsection (g) and is rewritten to read as follows:

"(g) If a vacancy arises or exists pursuant to either subsection (a) or (c) or (f) of this section when the General Assembly is not in session, and the appointment is deemed urgent by the Governor, the commissioner may be appointed and serve on an interim basis pending confirmation by the General Assembly."

Sec. 3. G.S. 62-21 is hereby amended by adding thereto a new subsection (c) to read as follows:

"(c) The commission is authorized to utilize the commission attorney or other qualified staff attorneys not involved in the matter being considered as necessary to advise and counsel panel chairmen as to rules of evidence and rules

of procedure in the conduct of any proceeding before a panel of three commissioners."

Sec. 4. G.S. 62-37 is hereby amended by adding at the end of subsection (b) the following words and punctuation:

"Provided, however, that the commission is authorized to order any such appraisal, investigations, or audit to be undertaken by a competent, qualified, and independent firm selected by the commission, the cost of such appraisal, investigation or audit to be borne by the public utility in question. Notwithstanding any other provisions of this Chapter, the commission is authorized to initiate a full and complete management audit of any public utility company once every five years, by a competent, qualified, and independent firm, such audit to thoroughly examine the efficiency and effectiveness of management decisions among other factors as directed by the commission. The cost of such audit is to be borne by the particular public utility subject to the audit; provided, however, that carriers subject to regulation by and auditing of the Interstate Commerce Commission shall not be required to bear the expense of additional audit of accounts or management audit required hereunder."

Sec. 5. G.S. 62-78, as amended by Chapter 243 of the 1975 Session Laws, is hereby amended by deleting the period at the end of subsection (a) and adding thereto the following words and punctuation:

"or, in its discretion, oral arguments in lieu thereof."

Sec. 6. G.S. 62-81, as amended by Chapter 243 of the 1975 Session Laws, is hereby amended as follows:

(a) By deleting the word "and" after the word "briefs" in subsection (a) line 9 and substituting in lieu thereof the word "or"; and

(b) By deleting the word "and" after the word "briefs" in subsection (a) line 12 and substituting in lieu thereof the word "or".

Sec. 7. G.S. 62-134(e), as added by Chapter 243 of the 1975 Session Laws, is hereby amended by adding thereto at the end thereof the following sentence:

"In any proceeding pursuant to this subsection, any person directly interested in the proceeding shall have a full right of intervention."

Sec. 8. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 1281 CHAPTER 868

AN ACT TO AMEND G.S. 161-5(a) TO PROVIDE FOR THE FILLING OF A VACANCY IN THE OFFICE OF REGISTER OF DEEDS IN CERTAIN COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 161-5(a) is amended by adding a new sentence to the end thereof, to read as follows:

"In those counties subject to this act, when a vacancy occurs from any cause in the office of register of deeds, the board of county commissioners shall fill such vacancy by appointment of a successor for the unexpired term. The successor shall be from the same political party as the register of deeds being succeeded, and shall qualify and give bond as required by law. The appointment

shall be from a list of three persons recommended by the county executive committee of the same political party as the register of deeds being succeeded, and these recommendations shall be made within 30 days of the vacancy and the appointment shall be made within 30 days from the receipt of recommendations; provided, if no recommendations are made within 30 days the county commissioners may proceed to fill the vacancy."

Sec. 2. This act shall apply only to the counties of Buncombe, Cherokee, Clay, Forsyth, Graham, Haywood, Jackson, Macon, Madison, Swain and Transylvania.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

S. B. 821 CHAPTER 869

AN ACT TO PROVIDE FOR NOTICE AND HEARING FOR CONDEMNATION ACTIONS FILED PURSUANT TO ARTICLE 9 OF CHAPTER 136.

The General Assembly of North Carolina enacts:

Section 1. Chapter 136 of the General Statutes is hereby amended by adding a new section to read as follows:

"§ 136-104.1. Upon the filing of the complaint and declaration of taking and deposit into court, any condemning authority, except the Department of Transportation and the Department of Administration, utilizing the provisions of this Article in the exercise of its power of eminent domain, the clerk shall issue an order to be served upon and directing the persons alleged to have an interest in the said land to appear before a judge at a time certain, but not less than 10 nor more than 20 days from service of the order, to show cause why title to the said land or such other interest therein specified in the complaint and declaration of taking, together with the right of possession thereto, should not vest in the Board of Transportation. Failure of the persons to whom the order is directed to appear at the appointed place and time and show sufficient cause shall constitute an admission of the right of the Board of Transportation to appropriate the title to the said land or other interest therein specified in the complaint and declaration of taking. Unless otherwise ordered by the judge at the show cause hearing, the title and right of possession shall vest in the condemning authority as provided by G.S. 136-104.2; provided, however, that the provisions of this section shall not apply with regard to properties owned by public service corporations as defined in G.S. 160A-243(c) unless the exercise of such power of eminent domain is either consented to by the owner of the property to be acquired by the city or, otherwise, first adjudicated after notice and a hearing that such acquisition will not prevent or unreasonably impair the continued devotion to the public use of such properties and the operation by such public service corporation. The provisions of this act shall not preclude the owner's remedy of injunction."

Sec. 2. G.S. 136-104 is hereby renumbered G.S. 136-104.2.

Sec. 3. This act shall not affect pending litigation.

Sec. 3.5. In exercising the power of eminent domain, the City of Fayetteville is hereby authorized to use the procedures of Article 9, Chapter

136, of the General Statutes, subject expressly to the provisions of G.S. 136-104.1.

Sec. 4. This act shall apply only to the County of Cumberland, and all municipalities located within the County of Cumberland.

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

S. B. 829 CHAPTER 870

AN ACT TO REPEAL G.S. 14-415.2 AND AMEND G.S. 14-415.1 TO PROHIBIT POSSESSION OF A HAND GUN OR PISTOL FOR FIVE YEARS FROM DATE OF CONVICTION, OR TERMINATION OF SUSPENDED SENTENCE, PROBATION, OR PAROLE, WHICHEVER IS LATER.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-415.1(a) is hereby rewritten to read as follows:

"(a) It shall be unlawful for any person who has been convicted in any court of this State, of any other state of the United States, or of the United States of feloniously violating any provision of Articles 3, 4, 6, 7, 8, 10, 13, 14, 15, 17, 30, 33, 36, 36A, 52A, or 53 of Chapter 14 of the General Statutes to purchase, own, possess, or have in his custody, care, or control any hand gun or other firearm with a barrel length of less than 18 inches or an overall length of less than 26 inches within five years from the date of such conviction, or unconditional discharge from a correctional institution, or termination of a suspended sentence, probation, or parole upon such conviction, whichever is later.

Every person violating the provisions of this section shall be guilty of a felony and shall be imprisoned for not more than five years in the State's prison or shall be fined an amount not exceeding five thousand dollars ($5,000), or both."

Sec. 2. Nothing in this act would prohibit the right of any person to have possession of a firearm within his own home or on his lawful place of business.

Sec. 3. G.S. 14-415.2 is hereby repealed.

Sec. 4. This act shall become effective on October 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

S. B. 832 CHAPTER 871

AN ACT RELATING TO PRAYER FOR JUDGMENTS CONTINUED IN MOTOR VEHICLE CASES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-24(c) is hereby amended by adding the following sentence at the end thereof:

"In addition to the foregoing provisions and for the purpose of this Article, a third or subsequent prayer for judgment continued within any five-year period shall be considered as a final conviction and to this end all orders entering prayer for judgments continued entered by the courts shall be reported to the Department of Motor Vehicles."

Sec. 2. This act shall become effective January 1, 1976, and shall apply only to those prayers for judgment continued which are entered after the effective date of this act.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 1222 CHAPTER 872

AN ACT TO AMEND THE CHARTER OF THE TOWN OF STOVALL TO INCREASE THE ALLOWABLE TAX RATE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 436 of the Private Laws of 1907 is amended by striking out of Section 5 thereof the words and figures "twenty-five cents ($.25) on the one hundred dollars' ($100.00) worth of property and fifty cents ($.50) on the poll" and by inserting in lieu thereof the words and figures "one dollar ($1.00) on the one hundred dollars' ($100.00) appraised value of property".

Sec. 2. The maximum allowable tax rate authorized by this act may be levied for the fiscal year 1975-76 and subsequent years, regardless of the date of ratification of this act.

Sec. 3. Subject to Section 2 hereof, this act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 1282 CHAPTER 873

AN ACT TO AMEND CHAPTER 738 OF THE 1975 SESSION LAWS TO PROVIDE THAT THE ELECTIONS FOR THE DURHAM CITY BOARD OF EDUCATION SHALL BE HELD IN COMPLIANCE WITH G.S. 163-293.

The General Assembly of North Carolina enacts:

Section 1. Chapter 738 of the 1975 Session Laws is hereby amended by inserting the following sentence after the first sentence of Section 2 thereof:

"All elections for the Durham City Board of Education shall be conducted in accordance with G.S. 163-293."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

S. B. 44 CHAPTER 874

AN ACT TO MAKE APPROPRIATIONS TO PROVIDE CAPITAL IMPROVEMENTS FOR STATE INSTITUTIONS, DEPARTMENTS, AND AGENCIES.

The General Assembly of North Carolina enacts:

Section 1. This act shall be known as "The Capital Improvement Appropriations Act of 1975."

Sec. 2. The appropriations made by this act as hereinafter mentioned are for the purpose of constructing buildings and utilities; acquiring sites therefor

where necessary; and acquiring lands at the institutions, departments, and agencies of the State.

Sec. 3. The appropriations made by this act to provide for capital improvements under Sections 4, 5, and 6 of this act shall be disbursed for the purposes provided by this act upon warrants drawn by the State disbursing officer, which warrants shall not be drawn for any State institution, department, or agency until an allotment has been approved by the director of the budget, and which allotment shall be approved only after full compliance with the Executive Budget Act, Article I, Chapter 143, of the General Statutes.

Prior to the execution of design contracts for projects to be financed in whole or in part with self-liquidating appropriations, the Advisory Budget Commission shall approve the method of financing such projects. Where direct appropriations are provided in this act for the purpose of furnishing movable equipment for any project, such funds for equipment shall not be subject to transfer into construction accounts except as authorized by the director of the budget. It is the intent of this act that projects listed herein shall be completed, including fixed and movable equipment and furnishings, within the limits of the amounts of the direct or self-liquidating appropriations provided herein, except as hereinafter provided.

Sec. 4. There is hereby appropriated out of the General Fund the sum of twenty-eight million two hundred forty-five thousand nine hundred thirty-seven dollars ($28,245,937) effective July 1, 1975, and fifty-one million three hundred eighty-six thousand five hundred thirteen dollars ($51,386,513) effective July 1, 1976, for use by the State institutions, departments, and agencies to provide for capital improvement projects according to the following schedule:

DEPARTMENT		1975-76	1976-77
DEPARTMENT OF ADMINISTRATION		$2,670,000	$5,975,000
1. State surplus property warehouse-building		438,000	
Receipts: Surcharge		438,000	
Appropriations		-0-	
2. Parking deck & motor pool dispatching facility	$2,704,000		
Less: Self-Liquidating	2,000,000		
Less: 1973 and 1974 Appropriations	704,000		
General Fund Appropriation		0	
3. Renovation of computer center		175,000	
4. Reserve for capital improvement cost increases		500,000	1,500,000
5. Continue development of mall in State government center		65,000	1,735,000

6. Renovations and repairs of buildings-government center		100,000		100,000
7. Land acquisition-government center		250,000		750,000
8. Land acquisition-State parks		500,000		500,000
9. Renovation of Agriculture Building		300,000		1,300,000
10. Renovation of Museum of Natural History				90,000
11. Bicentennial plaza between the Legislative Building and Capitol		400,000		
12. Renovation of Cultural Resources Records Center		205,000		
13. Completion of stacks-Archives Library Building annex		175,000		
DEPARTMENT OF AGRICULTURE		40,000		
1. Calibration station-Wilmington				
Building	79,000			
Movable equipment	1,000			
	80,000			
Less: Receipts	72,000			
General Fund Appropriation		8,000		
2. Machinery storage & shop building-Lewiston		32,000		
BOARD OF GOVERNORS - UNIVERSITY OF NORTH CAROLINA		11,360,500		29,222,500
1. Construction or renovation of educational, administrative, maintenance, and utilities facilities; architectural barrier removal; OSHA compliance; and land acquisition		5,110,500		4,527,500
2. East Carolina University Medical Complex	21,000,000		$22,145,000	
Less: Previous 1973 and 1974 appropriations	15,000,000			
General Fund Appropriation		6,000,000		22,145,000

3. North Carolina Central University Law School Building		250,000	2,250,000
4. Vocational Rehabilitation Center at Chapel Hill			300,000
			1,500,000
COMMUNITY COLLEGES			
1. Construction of facilities	1,500,000		4,500,000
Less: Receipts	1,500,000		3,000,000
General Fund Appropriation			1,500,000
DEPARTMENT OF CORRECTION		6,070,000	
1. Supplement to 1974 appropriation for replacement of confinement facilities		6,000,000	
2. Sewage plant renovation-Samarkand		30,000	
3. Restroom installations-Dobbs		40,000	
DEPARTMENT OF CULTURAL RESOURCES		150,000	237,500
1. Historic Halifax restoration		60,000	100,000
2. Reed Gold Mine Restoration		50,000	62,500
3. Tryon Palace fire and burglar alarm system		40,000	
4. Duke Homestead Restoration			75,000
DEPARTMENT OF HUMAN RESOURCES		5,351,112	10,243,888
1. Reserve for Corrections of Life-Safety Code deficiencies		3,000,000	2,000,000
2. Eastern N. C. Hospital			
a. X-Ray Equipment		50,000	
3. N. C. School for the Deaf			
a. Roof Repairs		30,000	
4. Eastern N. C. School for the Deaf			
a. Air Conditioning		475,000	
b. New Water Line		115,000	
5. Central School for the Deaf			
a. Roads and Parking		45,000	
b. Storage Building		120,000	
c. Sidewalks, Lighting, Landscaping, Playground		100,000	100,000
6. The Governor Morehead School			
a. Completion of Primary School		21,112	358,888

7. Broughton Hospital			
a. Re-roofing two buildings		110,000	
8. Cherry Hospital			
a. Utility bridge		135,000	
9. Dorothea Dix Hospital			
a. Renovation of male wing		100,000	2,400,000
10. Western Carolina Center			
a. Re-roof seven buildings		300,000	
11. O'Berry Center			
a. Re-roof four buildings			450,000
b. Air condition school building		225,000	
c. Renovation of, and additions to, B-1 and B-2 buildings		85,000	2,415,000
12. Caswell Center			
a. Re-roofing three buildings			110,000
b. Air condition school building		160,000	
c. Renovate Parrott and Johnson Bldgs.			725,000
d. Renovate bathrooms-McNair Bldg.		125,000	
e. Non-ambulatory dormitory		65,000	1,685,000
13. Murdoch Center			
a. Additional oil storage		90,000	
DEPARTMENT OF MILITARY AND VETERANS AFFAIRS		60,125	195,625
1. Reserve for construction of or additions to armories at Clinton, Salisbury, and Lumberton	110,000		1,427,000
Less Receipts - Federal	82,500		1,070,250
Less Receipts - Local			178,375
General Fund Appropriation		27,500	178,375

2. Supplement to 1973 appropriations for new armories at Canton/ Waynesville, High Point, and Monroe	261,000		138,000	
Less Receipts - Federal	195,750		103,500	
Less Receipts - Local	32,625		17,250	
General Fund Appropriation		32,625		17,250
DEPARTMENT OF NATURAL AND ECONOMIC RESOURCES		2,459,200		2,037,000
1. Division of Parks and Recreation				
a. Reserve for development of recreational facilities at federal reservoirs, State parks, & one million dollars ($1,000,000) for the N. C. Zoo		1,500,000		1,250,000
2. Division of Environmental Management				
a. Reserve for civil works projects		600,000		200,000
b. Reserve for development of Wanchese Harbor				500,000
c. Laboratory-Environmental Management		262,100		
3. Division of Economic Development				
a. Science and Technology Building sewer hook-up		10,100		

4. Division of Forest Resources		
a. Six forestry headquarters buildings	87,000	87,000
DEPARTMENT OF TRANSPORTATION AND HIGHWAY SAFETY	85,000	1,975,000
1. State Ports Authority		
a. Hardstand South Dock-Wilmington		1,720,000
b. Completion of sanitary sewer collection system-Wilmington	85,000	255,000
Grand Total General Fund Appropriation	$28,245,937	$51,386,513

Sec. 5. There is hereby appropriated out of the Highway Fund effective July 1, 1975, the sum of one million eight hundred four thousand five hundred dollars ($1,804,500) for the use of the Department of Transportation to provide for capital improvement projects according to the following schedule:

		1975-76	1976-77
DIVISION OF HIGHWAYS		$901,500	
1. Reserve for capital improvement projects		901,500	
DIVISION OF MOTOR VEHICLES		903,000	
1. Communications Center & Troop F Headquarters-Hickory		561,000	
Building	$554,000		
Movable equipment	7,000		
2. Highway Patrol Station		120,000	
Granville County Building	115,000		
Movable Equipment	5,000		
3. Highway Patrol Communications Center in Elizabethtown		222,000	
Grand Total Highway Fund Appropriation		$1,804,500	

Sec. 6. When each project appropriated in Section 4 of this act, other than those projects under the Department of Community Colleges and the University of North Carolina Board of Governors, is placed under construction contract, direct appropriations therefor shall be encumbered to include all costs for construction, design, investigation, administration, movable equipment and a reasonable contingency. Surplus direct appropriations remaining in the project budget after encumbering costs described above shall be placed in a project reserve fund credited to the Department of Administration. Use of this project reserve fund shall be at the discretion of the director of the budget solely to

allow for award of contracts where bids exceed appropriated funds, on condition that such projects supplemented shall have been designed within the physical scope intended by the applicable appropriation or any authorized change therein, and all means to award contracts within the appropriation shall have been reasonably attempted in the opinion of the director of the budget. The project reserve fund shall not be used in connection with any projects under the University of North Carolina Board of Governors or the Department of Community Colleges. At the discretion of the Advisory Budget Commission, any balances in the project reserve fund shall revert to the original source.

Sec. 7. Upon the request of a department, agency, or institution for which a capital improvement appropriation is herein made, the Governor, with a majority vote of the membership of the Advisory Budget Commission, is authorized and empowered to postpone any capital improvement project as provided in this act upon finding that the project cannot be carried out as originally intended by the General Assembly.

Sec. 8. The Advisory Budget Commission may, when in its opinion it is in the best interest of the State to do so, and upon the request of a department, institution, or agency, authorize an increase or a decrease in size, scope, direct or self-liquidating appropriation, of any project or projects enumerated in this act within the funds available to that department, agency, or institution.

Sec. 9. The Advisory Budget Commission may, when in its opinion it is in the best interest of the State to do so, and upon the request of a department, agency, or institution, authorize the construction of a capital improvement project not specifically provided for or authorized by the General Assembly when funds become available by gifts, grants, federal receipts, patient receipts or receipts becoming a part of special funds by act of the General Assembly. No funds appropriated under this act for a specific capital improvement shall be used or expended for any capital improvement not specifically provided for or authorized by the General Assembly, nor shall any such funds be transferred from one department of government to another except through the project reserve.

Sec. 10. The director of the budget is authorized and empowered to advance from the land-purchase appropriations made in this act, funds necessary for purchase of recreational land for which there is either no specific appropriation or only a partial appropriation, when reimbursement of such advances will be later effected by assured gifts or grants.

Sec. 11. There is appropriated in Section 4 of this act a lump sum to the University of North Carolina Board of Governors. Expenditure of funds in this appropriation shall be in accordance with the provisions of Chapter 1244, 1971 Session Laws, and the provisions of this act, except where specifically excluded. Other lump sums appropriated in Sections 4 or 5 of this act shall be used for specific projects of capital improvements in accordance with the priority needs of the respective agencies and as approved by the Governor and the Advisory Budget Commission.

Sec. 12. There is appropriated under Section 4 of this act to the Department of Administration the sum of five hundred thousand dollars ($500,000) in 1975-76 and one million five hundred thousand dollars ($1,500,000) as reserves for capital improvements cost increases to supplement appropriated construction projects authorized by the General Assembly. This reserve may be used at the discretion of the director of the budget solely to allow

for award of contracts where bids exceed appropriated funds, on the condition that such supplemented projects shall have been designed within the physical scope intended by the applicable appropriation or any authorized changes therein and all other means to award contracts shall have been reasonably attempted in the opinion of the director of the budget.

Sec. 13. It is the intention of this act that it shall be the announced policy of the Department of Community Colleges that no construction contracts for capital improvements be let until it has been clearly established that funds are available for related movable equipment.

Sec. 14. Subject to any transfers and changes between appropriations as permitted in previous sections of this act, the appropriations for capital improvements made herein shall be expended only for specific projects set out. Construction of all capital improvement projects enumerated in this act shall be commenced or self-liquidating indebtedness with respect thereto shall be incurred within eighteen months following the first day of the fiscal year in which the funds are available. If construction on such project or projects has not been commenced or self-liquidating indebtedness has not been incurred within that period, the direct appropriation for such project or projects shall revert to the original source, and the self-liquidating appropriation shall lapse; except that direct appropriations may be placed in the project reserve fund; provided, however, that this deadline with respect to both direct and self-liquidating appropriations may be extended with the approval of the Governor and the Advisory Budget Commission when, in their discretion, existing circumstances and conditions warrant such extension.

Sec. 15. The several departments, institutions, and agencies of the State are authorized and empowered to make application to any agency of the United States of America for grants-in-aid for the construction of the several projects in this act, within the scope and intent of the projects enumerated in this act. The Advisory Budget Commission and the Department of Administration, in its pertinent divisions, shall be furnished with copies of all requests for federal funds and this information shall be kept current. Receipt of monies from said grant or trusts and gifts shall be deposited with the State Treasurer and expended in accordance with the terms of said grants which are not contrary to the laws of this State.

Sec. 16. Notwithstanding the provisions of G.S. 146-30 or any other pertinent statute, the net proceeds of any sale, lease, rental, transfer, or other disposition of the telephone, electric, water and sewer systems, facilities, properties, assets, plants, works, and instrumentalities (identified as enterprises or projects by Article 1 of General Statutes Chapter 116) in the jurisdiction of and operated by institutions of The University of North Carolina shall not, prior to July 1, 1976, be approved for use by the director of the budget or the Advisory Budget Commission.

Sec. 17. The Department of Human Resources is faced with the threat of losing revenues in the institutional programs because of physical facilities not meeting standards established by the Occupational Safety and Health Act, Medicaid, Medicare, and Life Safety Codes.

It is the intent of the General Assembly that the three million dollars ($3,000,000) appropriated for 1975-76 and the two million dollars ($2,000,000) appropriated for 1976-77 to the Department of Human Resources for this purpose be used by the Secretary to correct those deficiencies most necessary to

provide for the maximum safety and care of patients and to assure the standards required for the continued receipt of third party insurance payments for those patients.

The use of funds for the correction of these deficiencies may be restricted by the director of the budget and the Advisory Budget Commission, when in their opinion the expenditure would not aid in the receipt of third party insurance payments.

Sec. 18. Subject to legislative action to transfer the Division of Youth Development and the training schools of the Department of Correction to the Department of Human Resources, it is the intent of the General Assembly that all funds appropriated in this and previous acts for capital improvement projects in the Division of Youth Development and at the schools shall be transferred to the Department of Human Resources.

Sec. 19. The appropriation of six million dollars ($6,000,000) for the biennium to the Department of Correction in Section 4 of this act and the fifteen million dollars ($15,000,000) reserve appropriated to the Department of Correction in Chapter 1202 of the 1973 Session Laws are to be used to design and build prisons by contract or forced account and to alleviate present overcrowding of prison facilities through either operations or capital projects as may be approved by the Governor and the Advisory Budget Commission.

Sec. 20. It is the intent of this General Assembly that, of the appropriations enumerated above in this act, the item below is to be financed from the General Revenue Sharing Trust Fund of the State, and that all the provisions of this act which are applicable to the remaining items in this act are also applicable to those funded from the General Revenue Sharing Trust Fund of the State, to the end of providing maximum flexibility for the expenditure of the appropriation made herein consistent with federal regulations governing expenditure of general shared federal revenue.

	1975-76
Department of Correction	
Supplement to 1974 appropriation for replacement of confinement facilities	$4,713,789

Sec. 21. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

S. B. 45 **CHAPTER 875**

AN ACT TO MAKE APPROPRIATIONS FOR CURRENT OPERATIONS OF STATE DEPARTMENTS, INSTITUTIONS, AND AGENCIES, AND FOR OTHER PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. The appropriations made herein are intended to be for maximum amounts necessary to provide the services and accomplish the purposes described in the budget. It is the intent of the General Assembly that savings shall be effected where the total amounts appropriated shall not be required to perform these services and accomplish these purposes, and that, except as allowed by the Executive Budget Act, or as hereinafter provided, such savings shall be reverted to the appropriate fund at the end of the biennium.

GENERAL FUND

Sec. 2. Appropriations from the General Fund of the State for the maintenance of the State departments, institutions, and agencies, and for other purposes as enumerated are hereby made for the biennium ending June 30, 1977, according to the following schedule:

	1975-76	1976-77
General Assembly		
Continuation	$3,822,139	$5,442,805
Expansion	87,239	80,259
Total	3,909,378	5,523,064
Judicial Department		
Continuation	40,136,213	40,993,108
Expansion	1,323,922	944,233
Total	41,460,135	41,937,341
The Governor's Office		
Continuation	725,249	736,069
Expansion	68,548	68,548
Total	793,797	804,617
The Lieutenant Governor		
Continuation	129,822	130,143
Expansion	0	0
Total	129,822	130,143
Department of Administration		
Continuation	16,960,535	17,479,499
Expansion	1,298,122	1,039,127
Total	18,258,657	18,518,626
Department of Secretary of State		
Continuation	414,739	407,360
Expansion	14,454	14,598
Total	429,193	421,958
Department of State Auditor		
Continuation	4,531,637	4,693,427
Expansion	0	0
Total	4,531,637	4,693,427
Department of State Treasurer		
Continuation	2,908,863	2,939,518
Expansion	127,320	122,706
Total	3,036,183	3,062,224
Department of Justice		
Continuation	8,569,664	8,754,026
Expansion	1,516,527	2,341,906
Total	10,086,191	11,095,932
Department of Revenue		
Continuation	16,647,019	17,109,343
Expansion	233,105	379,965
Total	16,880,124	17,489,308
State Board of Elections		
Continuation	130,400	133,130
Expansion	0	25,500
Total	130,400	158,630

Department of Military & Veterans Affairs		
Continuation	3,308,649	3,386,414
Expansion	214,280	198,425
Total	3,522,929	3,584,839
Department of Commerce		
Continuation	5,046,539	5,133,902
Expansion	1,397,519	1,456,124
Total	6,444,058	6,590,026
Department of Insurance		
Continuation	2,858,796	2,955,955
Expansion	87,992	105,630
Total	2,946,788	3,061,585
Department of Labor		
Continuation	2,367,915	2,342,552
Expansion	418,631	455,319
Total	2,786,546	2,797,871
Department of Correction		
Continuation	72,291,675	73,646,741
Expansion	5,231,941	5,990,535
Total	77,523,616	79,637,276
Department of Public Education		
1. Department of Public Instruction		
Continuation	4,736,598	4,791,659
Expansion	0	0
Total	4,736,598	4,791,659
2. State Public School Fund		
Continuation	722,409,995	729,798,698
Expansion	19,458,610	32,778,884
Total	741,868,605	762,577,582
3. State Board of Education		
Continuation	2,471,058	2,530,468
Expansion	10,000	37,000
Total	2,481,058	2,567,468
4. Occupational Education		
Continuation	40,415,792	40,485,421
Expansion	0	1,010,000
Total	40,415,792	41,495,421
5. Governor's School		
Continuation	219,488	219,488
Expansion	0	0
Total	219,488	219,488
6. Purchase of School Buses		
Continuation	4,880,921	4,877,816
Expansion	1,644,888	3,704,118
Total	6,525,809	8,581,934

7. Program of Education by Television		
Continuation	418,640	424,552
Expansion	0	0
Total	418,640	424,552
8. Advancement School		
Grand-in-aid	186,452	0
Total	186,452	0
9. School Food Service		
Continuation	3,593,057	3,897,226
Expansion	0	0
Total	3,593,057	3,897,226
10. Professional Improvement of Teachers		
Continuation	968,398	970,090
Expansion	150,000	150,000
Total	1,118,398	1,120,090
11. Planning Research & Development		
Continuation	120,532	0
Expansion	0	0
Total	120,532	0
12. Evaluation & Assessment		
Continuation	750,467	498,599
Expansion	0	0
Total	750,467	498,599
Subtotal—Public Schools		
Continuation	781,171,398	788,494,017
Expansion	21,263,498	37,680,002
Total	802,434,896	826,174,019
Department of Community Colleges		
1. Dept. of Community Colleges		
Continuation	92,997,457	93,060,177
Expansion	5,016,652	8,001,742
Total	98,014,109	101,061,919
2. Dept. of Community Colleges - Equipment		
Continuation	4,516,458	4,516,458
Expansion	1,687,800	2,288,750
Special Equipment		
Cape Fear Technical Institute		
$ 60,000		
$ 80,000		
Haywood Technical Institute		
140,000		
60,000		
Wilson Technical Institute		
635,000		
562,500		
Institutional Equipment		
852,800 1,586,250		
Total	6,204,258	6,805,208

3. Vocational Textile School		
Continuation	258,220	262,580
Expansion	0	0
Total	258,220	262,580
Subtotal—Community Colleges		
Continuation	97,772,135	97,839,215
Expansion	6,704,452	10,290,492
Total	104,476,587	108,129,707
The University of North Carolina		
Board of Governors		
1. General Administration		
Continuation	3,431,624	3,624,023
Expansion	0	0
Total	3,431,624	3,624,023
2. Lump Sum appropriations		
Continuation	1,278,408	1,278,408
Expansion	13,580,674	23,406,541
Institutional Programs		
11,966,590 20,796,398		
East Carolina University		
Medical School		
1,442,278 2,363,337		
North Carolina Central		
University Law School		
75,000 150,000		
Vocational Rehabilitation		
Center		
96,806 96,806		
Total	14,859,082	24,684,949
3. Related Educational Programs		
Continuation	8,012,165	8,416,302
Expansion	4,700,000	5,489,380
Total	12,712,165	13,905,682
University of North Carolina at		
Chapel Hill		
1. Academic Affairs		
Continuation	35,799,589	38,841,834
Expansion	0	0
Total	35,799,589	38,841,834
2. Division of Health Affairs		
Continuation	23,173,017	23,414,702
Expansion	0	0
Total	23,173,017	23,414,702
3. Area Health Education Centers		
Continuation	5,928,303	5,939,673
Expansion	0	0
Total	5,928,303	5,939,673

North Carolina State University at Raleigh		
1. Academic Affairs		
Continuation	32,252,700	33,211,229
Expansion	0	0
Total	32,252,700	33,211,229
2. Industrial Extension Service		
Continuation	718,430	720,894
Expansion	0	0
Total	718,430	720,894
3. Agricultural Experiment Station		
Continuation	11,100,524	11,245,097
Expansion	0	0
Total	11,100,524	11,245,097
4. Agricultural Extension Service		
Continuation	8,461,729	8,546,525
Expansion	0	0
Total	8,461,729	8,546,525
University of North Carolina at Greensboro		
Continuation	13,869,353	14,076,228
Expansion	0	0
Total	13,869,353	14,076,228
University of North Carolina at Charlotte		
Continuation	11,172,619	11,326,467
Expansion	0	0
Total	11,172,619	11,326,467
University of North Carolina at Asheville		
Continuation	2,485,609	2,518,595
Expansion	0	0
Total	2,485,609	2,518,595
University of North Carolina at Wilmington		
Continuation	4,783,686	4,903,332
Expansion	0	0
Total	4,783,686	4,903,332
East Carolina University		
Continuation	17,407,742	17,702,641
Expansion	0	0
Total	17,407,742	17,702,641
North Carolina Agricultural & Technical State University		
Continuation	8,193,303	8,444,705
Expansion	0	0
Total	8,193,303	8,444,705

Western Carolina University		
Continuation	9,070,276	9,175,637
Expansion	0	0
Total	9,070,276	9,175,637
Appalachian State University		
Continuation	12,950,545	13,254,447
Expansion	0	0
Total	12,950,545	13,254,447
Pembroke State University		
Continuation	3,242,805	3,311,595
Expansion	0	0
Total	3,242,805	3,311,595
Winston-Salem State University		
Continuation	3,458,257	3,552,001
Expansion	0	0
Total	3,458,257	3,552,001
Elizabeth City State University		
Continuation	2,760,569	2,801,554
Expansion	0	0
Total	2,760,569	2,801,554
Fayetteville State University		
Continuation	3,484,010	3,578,616
Expansion	0	0
Total	3,484,010	3,578,616
North Carolina Central University		
Continuation	7,236,592	7,344,356
Expansion	0	0
Total	7,236,592	7,344,356
North Carolina School of the Arts		
Continuation	1,861,995	1,938,985
Expansion	0	0
Total	1,861,995	1,938,985
North Carolina Memorial Hospital		
Continuation	16,405,175	17,154,578
Expansion	0	0
Total	16,405,175	17,154,578
Subtotal-University of North Carolina		
Continuation	248,539,025	256,322,424
Expansion	18,280,674	28,895,921
Total	266,819,699	285,218,345
Department of Cultural Resources		
Continuation	9,746,722	9,845,180
Expansion	751,134	526,056
Total	10,497,856	10,371,236
Department of Transportation & Highway Safety		
1. State Ports Authority		
Continuation	292,504	292,504
Expansion	0	0
Total	292,504	292,504

2. Aid to Airports		
Continuation	1,000,000	2,000,000
Expansion	126,027	119,379
Total	1,126,027	2,119,379
3. Grants - Mass Transit		
Continuation	0	0
Expansion	1,000,000	1,500,000
Total	1,000,000	1,500,000
4. Teaching and Certifying Breath Test Operators		
Continuation	0	0
Expansion	159,572	166,399
Total	159,572	166,399
Subtotal-Department of Transportation & Highway Safety		
Continuation	1,292,504	2,292,504
Expansion	1,285,599	1,785,778
Total	2,578,103	4,078,282
Department of Human Resources		
1. Departmental Administration and Support		
Continuation	1,982,444	2,013,382
Expansion	334,665	334,665
Total	2,317,109	2,348,047
2. Health Services		
Continuation	22,070,400	22,305,746
Expansion	3,151,838	5,290,111
Total	25,222,238	27,595,857
3. Services for the Blind		
Continuation	3,172,966	3,190,280
Expansion	167,800	332,664
Total	3,340,766	3,522,944
4. Vocational Rehabilitation		
Continuation	4,937,542	5,107,595
Expansion	206,837	204,982
Total	5,144,379	5,312,577
5. Mental Health Services		
(a) Administration and Grants-in-aid		
Continuation	29,197,314	28,449,639
Expansion	1,650,000	1,852,099
Total	30,847,314	30,301,738
(b) Alcoholic Rehabilitation Center, Black Mountain		
Continuation	1,400,227	1,449,325
Expansion	25,000	35,000
Total	1,425,227	1,484,325
(c) Alcoholic Rehabilitation Center, Butner		
Continuation	995,635	1,027,343
Expansion	5,000	5,000
Total	1,000,635	1,032,343

(d) Walter B. Jones Alcoholic Rehabilitation Center, Greenville		
Continuation	1,004,774	1,036,495
Expansion	10,000	10,000
Total	1,014,774	1,046,495
(e) Dorothea Dix Hospital		
Continuation	15,569,442	15,770,388
Expansion	110,250	147,000
Total	15,679,692	15,917,388
(f) Broughton Hospital		
Continuation	11,522,498	12,078,121
Expansion	173,248	231,000
Total	11,695,746	12,309,121
(g) Western Carolina Center		
Continuation	7,783,454	8,017,810
Expansion	187,000	250,000
Total	7,970,454	8,267,810
(h) Cherry Hospital		
Continuation	13,117,578	13,405,663
Expansion	89,250	119,000
Total	13,206,828	13,524,663
(i) O'Berry Center		
Continuation	6,408,300	6,488,878
Expansion	196,350	262,500
Total	6,604,650	6,751,378
(j) John Umstead Hospital		
Continuation	10,715,974	10,962,197
Expansion	152,252	203,000
Total	10,868,226	11,165,197
(k) Murdoch Center		
Continuation	10,987,585	10,969,004
Expansion	252,450	337,500
Total	11,240,035	11,306,504
(l) Caswell Center		
Continuation	10,868,761	10,970,455
Expansion	299,200	400,000
Total	11,167,961	11,370,455
(m) Wright School		
Continuation	550,218	561,954
Expansion	0	0
Total	550,218	561,954
6. North Carolina Orthopedic Hospital		
Continuation	911,248	928,465
Expansion	0	0
Total	911,248	928,465
7. Lenox D. Baker Cerebral Palsy & Crippled Children's Hospital of North Carolina		
Continuation	655,804	679,748
Expansion	29,100	29,100
Total	684,904	708,848

8. Confederate Women's Home		
Continuation	95,269	95,269
Expansion	0	0
Total	95,269	95,269
9. North Carolina Specialty Hospitals		
(a) General Administrative Office		
Continuation	237,854	246,236
Expansion	0	0
Total	237,854	246,236
(b) McCain Hospital		
Continuation	2,696,901	2,702,538
Expansion	0	0
Total	2,696,901	2,702,538
(c) Western Carolina Hospital		
Continuation	2,617,099	2,577,944
Expansion	0	0
Total	2,617,099	2,577,944
(d) Eastern North Carolina Hospital		
Continuation	2,723,257	2,659,761
Expansion	0	0
Total	2,723,257	2,659,761
10. North Carolina School for the Deaf		
Continuation	3,414,642	3,444,992
Expansion	163,334	166,554
Total	3,577,976	3,611,546
11. Eastern North Carolina School for the Deaf		
Continuation	1,958,424	2,016,554
Expansion	21,278	22,148
Total	1,979,702	2,038,702
12. Central North Carolina School for the Deaf		
Continuation	1,469,177	1,418,958
Expansion	43,252	71,093
Total	1,512,429	1,490,051
13. Governor Morehead School		
Continuation	2,376,748	2,413,152
Expansion	0	0
Total	2,376,748	2,413,152
14. Facility Services		
Continuation	5,858,504	5,817,431
Expansion	411,913	422,088
Total	6,270,417	6,239,519

15. Social Services		
Continuation	77,823,696	77,079,152
Expansion	19,844,670	28,521,076
Total	97,668,366	105,600,228
16. State Aid to Non-State Health & Welfare Agencies		
Continuation	2,495,232	2,495,232
Expansion	199,779	199,779
Total	2,695,011	2,695,011
Subtotal-Department of Human Resources		
Continuation	257,618,967	258,379,707
Expansion	27,724,466	39,446,359
Total	285,343,433	297,826,066
Department of Natural & Economic Resources		
Continuation	23,421,276	23,865,418
Expansion	1,068,512	1,304,324
Total	24,489,788	25,169,742
Department of Agriculture		
Continuation	13,339,874	13,618,129
Expansion	303,494	181,099
Total	13,643,368	13,799,228
Debt Service-Interest		
Continuation	15,900,615	20,819,000
Expansion	0	0
Total	15,900,615	20,819,000
Debt Service-Redemption		
Continuation	18,970,000	21,300,000
Expansion	0	0
Total	18,970,000	21,300,000
Contingency & Emergency		
Continuation	2,000,000	2,000,000
Expansion	0	0
Total	2,000,000	2,000,000
Salary Adjustments of State Employees		
Continuation	600,000	600,000
Expansion	0	0
Total	600,000	600,000
Reserve for Retirement		
Continuation	0	0
Expansion	2,000,000	2,000,000
Total	2,000,000	2,000,000
Reserve for Cost Increase Utilities & Fuel		
Continuation	0	0
Expansion	4,350,000	4,350,000
Total	4,350,000	4,350,000

Reserve for Cost Increase Postage		
Continuation	0	0
Expansion	250,000	250,000
Total	250,000	250,000
Reserve for Salary Increase for certain employees not subject to the Personnel Act:		
College Academic Personnel EPA:		
Continuation	0	0
Expansion	834,827	1,669,654
Community College Personnel EPA:		
Continuation	0	0
Expansion	1,475,572	2,951,144
Total	2,310,399	4,620,798
Reserve to provide for one month's salary for deleted positions		
Continuation	0	0
Expansion	300,000	0
Total	300,000	0
TOTAL GENERAL FUND		
Continuation	1,651,222,370	1,681,659,586
Expansion	98,611,828	144,553,704
Total	$1,749,834,198	$1,826,213,290

HIGHWAY FUND

Sec. 3. Appropriations from the Highway Fund of the State for the expense of collecting revenues, for the service of the highway debt, and for the maintenance of the transportation-related activities, are hereby made for the biennium ending June 30, 1977, according to the following schedule:

TRANSPORTATION

	1975-76	1976-77
A. Department of Transportation	$393,789,661	$374,005,979
1. General Administration		
a. Policy & Program Direction	555,688	556,408
b. Central Management & Service	8,669,107	8,972,723
c. Transportation Planning	780,930	775,040
d. Transportation Safety	10,271,593	10,626,144
2. Highways		
a. General Management	1,353,856	1,352,210
b. Engineering Management	14,883,381	14,641,316
c. State Construction		
1. Primary Construction	41,006,395	21,280,912
2. Secondary Construction		
(a) Statewide	0	0
(b) Safety Improvements	100,000	100,000
(c) County	30,000,000	30,000,000
3. Urban Construction	16,067,997	10,573,649
4. Access & Public Roads	1,500,000	1,500,000
5. Bridge Replacements	5,000,000	5,000,000
d. State Funds to Match Federal Highway Aid—		

Planning Survey & Highway Planning Research	1,356,526	1,367,714
e. State Funds to Match Federal Highway Aid—Construction	44,595,615	44,595,614
f. State Maintenance		
1. Primary	39,360,480	43,624,655
2. Secondary	64,847,320	64,301,380
3. Urban	11,679,066	11,974,892
g. Ferry Operations	7,355,235	4,564,910
h. State Aid to Municipalities	29,750,000	29,375,000
3. Mass Transportation Planning	102,454	118,457
4. Revenue Collection & Vehicle Regulation	13,418,783	13,457,175
5. State Highway Patrol	24,686,680	24,697,052
6. Reserve and Transfers		
a. Merit Salary Increments	5,609,950	9,562,132
b. Employers Retirement Contribution for central offices & Division of Highways	9,975,109	9,994,282
c. Highway Fund Contribution to the Law Enforcement Officers Retirement Fund	1,330,000	1,435,000
d. Employers Social Security Contribution for the central offices and the Division of Highways	6,115,903	6,127,080
e. Employers Contribution for Hospital/Medical Insurance—central offices & Division of Highways	1,918,956	1,922,856
f. Disability Salary Continuation for the central offices and the Division of Highways	442,834	443,736
g. Reimbursement to the Department of Revenue for Gasoline Tax Collection	680,803	690,642
h. Reserve for Implementation of the Occupational Health and Safety Act	375,000	375,000
B. Other Highway Fund: (Total)	26,905,839	26,194,021
1. Debt Service	23,776,500	23,156,000
2. Salary Adjustments for Highway Fund Positions	1,000,000	1,000,000
3. Reserve for Contingencies	500,000	500,000
4. Reserve for Increased Retirement Benefits	220,000	220,000
5. Department of Commerce for Transportation Inspection	415,659	418,658
6. Department of Agriculture for Gasoline Inspection	993,680	899,363
TOTAL HIGHWAY FUND	$420,695,500	$400,200,000

Transfers may be made by authorization of the director of the budget from Section 3, Title A 2.a. and b. to Title A 2.c(1), c(2)(a), c(2)(b), c(2)(c), c(3), c(4), A 2.d., and A 2.e. Transfers may be made by authorization of the director of the budget from Section 3, Title A 2.c(1), c(3), c(4), A 2.d. and A 2.e. to Title A 2.a. and A 2.b., provided that the original appropriation from which the transfer is made shall not be reduced by more than ten percent (10%), and provided further that transfers to Title A 2.a. and A 2.b. for the purpose of providing additional positions, shall be approved by the Advisory Budget Commission. Transfers of appropriations within subparagraphs A 2.c. (1), c(2), c(3), c(4), A 2.d., A 2.e., A 2.f(1), f(2), f(3), and A 2.g., shall be governed by the provisions of G.S. 136-44.2. Allocations may be made from the Reserve for Contingencies by authorization of the Governor and Council of State. In the event the revenue exceeds the Highway Fund appropriation made herein, the excess will be allocated to construction of the three highway systems in the same proportional amounts as appropriated.

In the event the revenue is less than the appropriations, State funded construction appropriations in the Primary, Secondary, and Urban systems shall be reduced up to the extent necessary to maintain a viable highway maintenance program.

The Controller of the Department of Transportation and Highway Safety is hereby directed to allocate at the beginning of each fiscal year from the various appropriations in Section 3 under Titles A 2.c., A 2.d., A 2.e., A 2.f., and A 2.g. herein made to the Office of Highways, sufficient funds to eliminate all overdrafts on State maintenance and construction projects, and such allocations may not be diverted to other purposes.

In the event the availability of federal funds or the rate of federal matching for any program under the federal aid construction program is changed during any part of the 1975-77 biennium, the director of the budget may authorize transfers in Section 3 between Title A 2.c., State construction, A 2.f., State maintenance, A 2.d., State funds to match federal aid highway planning survey and highway planning research, and A 2.e., State funds to match federal aid construction, or within the affected federal aid programs, of sufficient funds to provide adequate matching for federal aid construction funds; provided that no transfers shall be made from Title A 2.c.(2), secondary construction, or A 2.f.(2), secondary maintenance, for this purpose.

During each fiscal year, the director of the budget, upon recommendation of the Board of Transportation, may authorize establishment of a reserve for school and industrial access roads and emergencies as provided for by G.S. 136-44.2, and other required reserves.

Notwithstanding any other provisions of this act or any other provision of the law, no transfers shall be made from the appropriation for secondary road county construction, nor shall that appropriation be reduced by any amount, except by a reduction, uniformly applicable to all highway construction appropriations made necessary by reduction in revenues.

Sec. 4. General Statute 20-7(j) is hereby rewritten to read as follows: "The fees collected under this section and G.S. 20-14 shall be placed in the Highway Fund."

General Statute 20-85 is hereby amended by deleting the last sentence thereof.

General Statute 20-183.7 is hereby amended by rewriting the last sentence thereof as follows: "The Department of Motor Vehicles shall receive thirty-five

cents (35¢) for each inspection certificate, and these proceeds shall be placed in the Highway Fund."

Sec. 5. Of the three hundred seventy-five thousand dollars ($375,000) appropriated for the Occupational Safety and Health Act (OSHA) in the Department of Transportation, one hundred seventy-five thousand dollars ($175,000) shall be transferred to the Department of Labor to administer the OSHA program in the Department of Transportation.

Sec. 6. It is the intent of the General Assembly that funds appropriated herein for regional and divisional personnel offices and related expenses shall be used only for those personnel officers who function in a staff or subordinate role to the Assistant Chief Engineers or Division Engineers.

Sec. 7. Highway Fund appropriations shall not be transferred to the State Board of Education to supplement the annual vehicle registration tax collected under the provision of G.S. 20-88.1.

Sec. 8. In each year that an appropriation bill is considered by the General Assembly, the Department of Transportation shall make a report to the appropriations committee of each house on all services provided by the department to the public for which a fee is charged. The report shall include an analysis of the cost of each service and the fee charged for that service.

Sec. 9. Any balances remaining in the "Drivers License Fund", the "Safety Equipment Inspection Fund" and the "Lien Recording Fund" on July 1, 1975, shall be placed in the Highway Fund.

Funds appropriated by previous General Assemblies from the Highway Fund to the Governor's Highway Safety Program in the amount of one million nine hundred eighty thousand dollars ($1,980,000) which are not now obligated are hereby reverted and reapplied to meet Highway Fund appropriations authorized in this act.

Sec. 10. There is hereby appropriated out of funds available in the various Special Funds sufficient amounts to carry on required activities included under each fund's operations subject to provisions of the Executive Budget Act, Chapter 143, Article 1, General Statutes of North Carolina.

GENERAL PROVISIONS

Sec. 11. All insurance and all official fidelity and surety bonds authorized for the several departments, institutions, and agencies shall be effected and placed by the Insurance Department, and the cost of such placement shall be paid by the department, institution, or agency involved upon bills rendered to and approved by the Insurance Commissioner.

SPECIAL PROVISIONS

Sec. 12. Appropriations in Section 2 for services provided, in accordance with Title XIX of the Social Security Act (Medicaid) are intended for both the categorically needy and the medically needy. Funds appropriated for such services are to be expended in accordance with the following schedule of services and payment rates:

Services	Payment Rate
In-Patient Hospital	Allowable costs.
Out-Patient Hospital	90 percent of allowable costs.
State Mental and Specialty Hospitals & Mental Retardation Centers	Allowable costs ("Fair" compensation).

(All Medicaid services including mental, medical, intermediate care & skilled nursing care)	
Skilled Nursing Facilities (SNF)	Allowable costs up to $25.00 per day.
Drugs	Average national wholesale drug cost plus $2.50 professional service fee per prescription per month.
Physicians	90 percent of allowable usual & customary charges.
Chiropractors	90 percent of allowable usual & customary charges.
Dental	90 percent of allowable usual & customary charges.
Home Health	Allowable costs.
Optical Services	90 percent of allowable usual & customary charges.
Medicare Buy-in	Actual premium.
Public Health Clinics	Allowable costs.
Ambulance Services	100 percent of allowable, reasonable, usual & customary charges.
Pre-21 Screening	Allowable costs.
Hearing Aids	80 percent usual, customary, & reasonable charges (including dispensing fee).
Mental Health Clinics	Allowable costs (federal portion only; nonfederal share covered by State/local operating funds).
Intermediate Care Facilities	Allowable costs.
Family Planning	Allowable costs (See specific services, i.e., Physician, Clinic, etc.).
Independent Laboratory & X-Ray Services	90 percent of allowable usual & customary charges.
Optical Supplies	100 percent of reasonable wholesale cost of materials.

Any changes in services or rates of payment in the Medicaid Program must be approved by the Governor and the Advisory Budget Commission.

It is the intent of the General Assembly that the State will pay eighty-five percent (85%) and the counties will pay fifteen percent (15%) of the nonfederal costs of applicable services herein listed or a prepaid premium if Medicaid Services and related administrative costs are paid for by a health-insuring contractor.

It is the further intent of this General Assembly that, as allowed by federal regulations, recipient co-payments shall be required for services under Medicaid as follows:

	Eligibility		Co-Payment for
	Categorically	Medically	Each Occasion
Service	Needy	Needy	of Service
In-Patient Hospital		x	$ 2.00
Out-Patient Hospital		x	1.00
Physicians		x	1.00
Optometrists		x	1.00
Drugs	x	x	.50
Dental	x	x	2.00
Chiropractors	x	x	1.00
Optical Services	x	x	2.00

Maximum net family annual income eligibility standards for Medicaid shall be as follows; any change must be approved by the Governor and the Advisory Budget Commission.

	Categorically	Medically
Family Size	Needy	Needy
1	$1,452	$1,700
2	1,908	2,200
3	2,196	2,500
4	2,400	2,800
5	2,628	3,000
6	2,832	3,200
7	3,036	3,400
8	3,168	3,600
9	3,300	3,800
10	3,480	4,000
11	3,660	4,200
12	3,840	4,400
13	4,020	4,600

Sec. 13. Providers of medical services under the various State programs offering medical care to citizens of the State shall be reimbursed at the same rates as those provided under the Medicaid program. This provision relates specifically to the Crippled Children and Maternal and Child Health programs and the Chronic Disease Section of the Division of Health Services, services under Vocational Rehabilitation and services for the blind under the Department of Human Resources.

Maximum net family annual income eligibility standards for services in these programs shall be as follows; any change must be approved by the Governor and the Advisory Budget Commission.

	Maternal and Child Care, Cancer,		Blind
Family Size	Migrant Health	Kidney	Rehabilitation
1	$ 4,200	$ 6,400	$ 3,600
2	5,300	8,000	4,800
3	6,400	9,600	5,700
4	7,500	11,000	6,300
5	7,900	12,000	6,900

6	8,300	12,800	7,500
7	8,800	13,600	8,100
8	9,300	14,400	8,700
9	9,800	15,200	9,300
10	10,300	16,000	9,900
11	10,900		
12	11,400		
13	12,000		

Family Size	Medical Eye Care Blind Adults	Medical Eye Care Blind Pre-School & School Children	Vocational Rehabilitation
1	$ 1,800	$ 4,200	$ 2,568
2	2,520	5,300	4,260
3	3,180	6,400	5,052
4	3,600	7,500	6,204
5	3,960	7,900	7,104
6	4,320	8,300	7,814
7	4,680	8,800	8,524
8	5,040	9,300	9,235
9		9,800	9,945
10		10,300	10,656
11		10,900	11,366
12		11,400	12,076
13		12,000	12,787

Sec. 14. Appropriations made herein for health programs not covered under Medicaid are intended to provide for the purchase of medical services for a full twelve-month period for eligible recipients under these programs. If during the fiscal year, expenditures in these programs indicate that the funds may be insufficient for a full twelve months, the Department of Human Resources shall adjust the eligibility requirements for participation in these programs to the end that the appropriations are sufficient.

Sec. 15. Appropriations made herein to the Division of Mental Health Services for community mental health programs, as authorized by G.S. 122-35.1, are intended to be for both out-patient and in-patient services.

Sec. 16. It is the intent of this General Assembly that non-State health and welfare agencies submit their appropriation requests for grants-in-aid through the Secretary of the Department of Human Resources for recommendations to the Governor and the Advisory Budget Commission and the General Assembly, and that agencies receiving these grants, at the request of the Secretary of the Department of Human Resources, provide a post-audit of their operations that has been done by a certified public accountant.

Sec. 17. The Department of Human Resources is authorized and directed to utilize any funds available to the department by reason of increased Social Security and/or Supplemental Security Income checks to General Assistance recipients, and consequent reduction in the amounts otherwise required as supplementary State funds, to provide increased payments for those General Assistance recipients receiving family care, rest home, and attendant care services.

Sec. 18. It is the intent and purpose of this act to establish a more adequate level of direct patient care in each of the mental health institutions.

Positions recommended for direct patient care in the budget shall not be reclassified and funds shall not be reallocated to non-direct patient-care activities.

Sec. 19. Appropriations made herein to the Department of Community Colleges for equipment and library books are made for each year of the biennium, and all unencumbered appropriations shall revert to the General Fund twelve months after the close of the fiscal year for which they were appropriated. Encumbered balances or unliquidated obligations outstanding at the end of this period shall be handled in accordance with existing State budget policies.

Sec. 20. Funds appropriated herein to the State Department of Public Education, Department of Community Colleges, as operating expenses for allocation to the institutions comprising the Community College System shall not be used to support recreation extension courses. The financing of such courses by any institution shall be on a self-supporting basis and contact hours produced from such activities shall not be counted when computing full-time equivalent students for use in budget-funding formulas at the State level.

Sec. 21. Each stipend recipient in the Department of Community Colleges Administrator Training Program shall serve public post-secondary education in North Carolina two months for every one month on stipend, or repay a pro rata share of the State funds received.

Sec. 22. For the purposes of determining the system-wide number of curriculum instructional unit positions each year, the total curriculum and extension full-time equivalent student enrollment shall be divided by 23.

Sec. 23. Funds appropriated in Section 2 for the Department of Community Colleges to increase support for supplies and materials shall be used to increase the formulas by which supplies and materials funds are allocated to the institutions and shall not be used to change any other allocation formulas. All other funds appropriated for operating costs of the community colleges and technical institutes are intended to support student enrollment at the per student rate provided by the formulas adopted by the State Board of Education for the preceding year and shall not be used to increase the formulas by which fund allocations will be determined.

Sec. 24. Funds appropriated herein to the Department of Community Colleges to provide financial assistance to hospital programs of nursing education leading to diplomas in nursing which are fully accredited by the North Carolina Board of Nursing and operated under the authority of a public or nonprofit hospital licensed by the North Carolina Medical Care Commission shall be distributed, upon application for financial assistance, on the basis of eight hundred fifty dollars ($850.00) for each student duly enrolled in the program as of December 1 of the preceding year and on condition that accreditation is maintained. The State Board of Education shall make such rules and regulations as are necessary to ensure that this financial assistance is used directly for faculty and instructional needs of diploma nursing programs.

Sec. 25. Funds appropriated to the State Department of Public Education for the purchase of elementary basic textbooks shall be permanent appropriations, and unexpended portions of these appropriations shall not revert to the General Fund at the end of the biennium.

Sec. 26. Funds appropriated in Section 2 to the State Department of Public Education for clerical assistance in the public schools and for

instructional personnel in psychological and guidance counseling, health and social services, reading, mathematics, and cultural arts shall be allocated to local administrative units according to formulas in effect on June 30, 1975. The State Board of Education shall require local administrative units to provide evidence that the expenditure of local funds for each such purpose is no less than the amount expended per pupil in average daily membership for each such purpose during the prior year. At the discretion of the State Board of Education, funds appropriated under this act may be withheld to ensure that supplanting of local funds does not occur. The State Board of Education is empowered to waive this requirement upon evidence provided by the local administrative units that compliance will result in inefficient use of funds and that the overall per pupil expenditure from local funds for instructional purposes is no less than the overall per pupil expenditure from local funds for such purposes in the preceding fiscal year.

Sec. 27. Funds appropriated in Section 2 of this act to the State Department of Public Education for the development of health, physical education, and athletic activities shall be allocated by the State Board of Education to local administrative units on the basis of average daily membership in kindergarten through grade six.

Sec. 28. Funds appropriated in Section 2 to the State Department of Public Education to replace lost federal receipts shall be utilized only for existing programs that experience a loss in federal funding and any amounts not so required shall revert to the General Fund.

Sec. 29. Funds appropriated herein to the Board of Governors of The University of North Carolina for continuation of financial assistance to the medical schools of Duke University and Wake Forest University shall be disbursed on certifications of the respective schools of medicine that show the number of North Carolina residents as first-, second-, third- and fourth-year students in the school as of November 1, 1975, and November 1, 1976. Disbursement to Wake Forest University shall be made in the amount of eight thousand dollars ($8,000) for each such student, one thousand dollars ($1,000) of which shall be placed by the school in a fund to be used to provide financial aid to needy North Carolina students who are enrolled in the school, provided that the maximum aid given to any student from this fund in a given year shall not exceed the amount of the difference in tuition and academic fees charged by the school and those charged at the School of Medicine at The University of North Carolina at Chapel Hill.

Disbursement to Duke University shall be made in the amount of five thousand dollars ($5,000) for each such student, five hundred dollars ($500.00) of which shall be placed by the school in a fund to be used to provide student financial aid to financially needy North Carolina students who are enrolled in the school, provided that no individual student shall be awarded assistance from this fund in excess of one thousand five hundred dollars ($1,500) each year. In addition to this basic disbursement for each year of the 1975-77 biennium, a disbursement of one thousand dollars ($1,000) shall be made for each such student in the first-year class to the extent that the enrollment of the first-year class exceeds 30 North Carolina students in the 1975-76 fiscal year. In the 1976-77 fiscal year, the additional disbursement of one thousand dollars ($1,000) shall be made for each such student in the first- and second-year class to the extent that enrollment of each class exceeds 30 North Carolina students.

The Board of Governors shall establish the criteria for determining the eligibility for financial aid of needy North Carolina students who are enrolled in the schools and shall review the grants or awards to said eligible students. The Board of Governors shall promulgate regulations for determining which students are residents of North Carolina for the purposes of these programs. The Board shall also make such regulations as it may deem desirable to insure that these funds are used directly for instruction in the medical programs of the schools and not for religious or other nonpublic purposes. The Board shall encourage the two schools to orient students towards personal health care in North Carolina giving special emphasis to family and community medicine.

Sec. 30. Funds appropriated in this act to the Board of Governors of The University of North Carolina for aid to private colleges shall be disbursed in accordance with the provisions of G.S. 116-19, G.S. 116-21, and G.S. 116-22. These funds are intended to provide up to two hundred dollars ($200.00) per full-time equivalent North Carolina undergraduate student enrolled at a private institution as of October 1 each year.

In addition to any funds appropriated pursuant to G.S. 116-19 and in addition to all other financial assistance made available to private educational institutions located within the State, or to students attending such institutions, there is hereby granted to each full-time North Carolina undergraduate student attending an approved institution, as defined in G.S. 116-22, the sum of two hundred dollars ($200.00) per academic year, which shall be distributed to the student as hereinafter provided.

The tuition grants provided for herein shall be administered by the State Education Assistance Authority pursuant to rules and regulations promulgated by the State Education Assistance Authority not inconsistent with this act. The State Education Assistance Authority shall not approve any grant until there has been received from an appropriate officer of the approved institution a certification that the student applying for said grant is an eligible student. Upon receipt of such certification, in proper form, the State Education Assistance Authority shall remit, at such times as it shall prescribe, said grant to the approved institution on behalf and to the credit of such student.

In the event a student on whose behalf a grant has been paid shall not be enrolled and carrying a minimum academic load as of the tenth classroom day following the beginning of the school term for which such grant was paid, the institution shall refund to the State Education Assistance Authority the amount of grant paid on behalf of such student for such term. Each approved institution shall be subject to examination by the State Auditor for the purpose of determining whether such institution has properly certified eligibility and enrollment of students and credited grants paid in the behalf of such students.

In the event there are not sufficient funds to provide each eligible student with a full grant, each eligible student shall receive a reduced but equal share of funds then available for the remainder of the academic year within the fiscal period covered by the current appropriation.

Expenditures made pursuant to this section shall be used for secular educational purposes only. If any provision of this section or the application thereof to any person or circumstances be held invalid, such invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to this end the provisions of this section are declared to be severable.

Sec. 31. Within the limits of the appropriations made in Section 2 to the Board of Governors of The University of North Carolina, community hospitals are to be awarded grants in the amount of fifteen thousand dollars ($15,000) per year for each certified residency that is established and filled and that represents an increase over the number of certified residencies at those hospitals as of June 30, 1974, in the fields of family practice, internal medicine, pediatrics, and obstetrics and gynecology.

Sec. 32. The Board of Governors is urged to utilize the funds appropriated in Section 2 for institutional programs to maintain accreditation of the North Carolina Central University Law School; to obtain accreditation of the East Carolina University School of Medicine; to provide for scheduled enrollment increases in the Division of Health Affairs at UNC-Chapel Hill, East Carolina University, and in other health-related programs on other campuses of the University; and to provide for the planned expansion of the Area Health Education Centers.

Sec. 33. The balance, as of June 30, 1975, of the seven million five hundred thousand dollars ($7,500,000) appropriated in Chapter 562 of the 1973 Session Laws to the Board of Governors of The University of North Carolina as a reserve to establish an additional degree-granting school of medicine within The University of North Carolina and carried forward by Chapter 1190 of the 1973 Session Laws, and the balance, as of June 30, 1975, of the seven million five hundred thousand dollars ($7,500,000) appropriated in Chapter 1190 of the 1973 Session Laws as a reserve for the purposes outlined in Section 46 of that act, are hereby carried forward as a non-reverting special fund to the Board of Governors of The University of North Carolina, which shall be available for current operation or capital improvement expenditures, or both, in support of the development of a degree-granting school of medicine within The University of North Carolina, heretofore authorized by the Board of Governors at East Carolina University. These funds may be used for, but are not limited to, expenditures for the planning and construction of clinical and other educational facilities to support the medical education program in buildings of the Pitt County Memorial Hospital.

If these funds are used for such purposes, any alterations or construction that is required for these purposes that is within or attached to the physical confines of the buildings of Pitt County Memorial Hospital according to construction contracts that have been previously entered into by the contracting parties for Pitt County Memorial Hospital, may be exempt from the requirements of G.S. 143-129 and G.S. 143-132 and accomplished by negotiated change orders to existing contracts.

This exemption does not apply to the construction of any free-standing addition or additions to the Pitt County Memorial Hospital for the accomplishment of the above purposes.

Sec. 34. Fifty percent (50%) of all indirect costs (overhead receipts) received in connection with contracts and grants in any fiscal year by any of the constituent institutions of The University of North Carolina shall be transferred to their general operating budget as reimbursement for operating costs.

Sec. 35. This act provides for withdrawing four million dollars ($4,000,000) from the balances of the overhead receipts funds at the constituent institutions of The University of North Carolina. This reduction shall be

apportioned among the constituent institutions in proportion to the May 31, 1975, balances in these funds at each institution.

Sec. 36. Of the amount appropriated in Section 2 to the Board of Governors for related educational programs, five hundred thousand dollars ($500,000) for 1975-76 and six hundred fifty thousand dollars ($650,000) for 1976-77 and any matching federal funds shall be used by the State Education Assistance Authority to establish a North Carolina incentive grants program for financial aid to needy North Carolina undergraduate students enrolled in post-secondary education institutions in North Carolina.

Sec. 37. Funds appropriated herein to the Board of Governors of The University of North Carolina for allocation to the constituent institutions shall be distributed fairly and equitably among the institutions in accordance with the provisions of G.S. 116-11(9).

Sec. 38. All funds provided as grants-in-aid to private nonprofit organizations in the areas of history, art, and culture are appropriated to the Department of Cultural Resources for allocation in accordance with law. Funds appropriated to the department for grants-in-aid to assist in the restoration of significant historic sites owned by private nonprofit organizations shall be expended only in accordance with Sections 121-11, 121-12 and 143-31.2 of the General Statutes.

It is the intent of the General Assembly that non-State organizations operating in the areas of history, art, and culture submit their requests for grant-in-aid appropriations through the Secretary of the Department of Cultural Resources for recommendations to the Governor, the Advisory Budget Commission and the General Assembly. The Secretary is empowered and directed to make regular and timely reviews, studies and recommendations concerning the operations and needs of these organizations for State funds. In discharging this responsibility, the Secretary may request from the grantees operating statements, audit reports and other information deemed appropriate.

Sec. 39. It is the intent of this act that expenditures of funds appropriated herein as reserves shall not be scheduled in amounts or in such manner as to create an increased annual obligation in the succeeding year, except as provided by statute.

Sec. 40. Subject to a recommendation of the director of the budget and with the approval of the Council of State, funds may be allotted out of the Contingency and Emergency Appropriation for use by the State Department of Agriculture, the North Carolina Agricultural Experiment Station, the United States Department of Agriculture, or any of them, for a witch weed control program or for payment of hog cholera indemnities, or both.

Sec. 41. Appropriations are provided in Section 2 of this act for required employer contributions to the Teachers' and State Employees' Retirement Fund, the Law Enforcement Officers' Benefit and Retirement Fund, the Judicial Department Retirement Fund, and the Social Security Agency, for employees whose salaries are paid from the General Fund; in Section 3 of this act, for required employer contributions for employees whose salaries are paid from the Highway Fund; and in Section 4 of this act, for required employer contributions for employees whose salaries are paid from Special Funds. For employees whose salaries are paid from department, office, institution, or agency receipts (other than gifts, including foundation funds), the employer requirement shall be paid from the same source as the source of the employee's

salary. In those instances in which an employee's salary is paid in part from the General Fund and in part from department, office, institution, or agency receipts (other than gifts, including foundation funds), required employer contributions shall be paid from the General Fund only to the extent of the proportionate part paid from the General Fund in support of the salary of such employee, and the remainder of the employer's requirement shall be paid from the same source which supplies the remainder of such employee's salary. The requirements of this section as to source of payment are also applicable to payments on behalf of employees of Hospital-Medical Insurance, Longevity, and Unemployment Insurance, except that where the employee's salary is paid in whole or in part from gifts, including foundations, the source of such gifts must bear its proportional share of the employer's requirement for these purposes.

Notwithstanding the restrictions in this section, the director of the budget is authorized and empowered to promulgate special rules and regulations to apply to employer requirements with respect to employees whose salaries are paid from inter-agency receipts, where payments for the services of such employees originate from State appropriations, to the end that the effective purchasing power of such appropriations shall not be materially reduced as a result of payment of the employer's requirement.

Any questions as to the applicability of the provisions of this section shall be resolved by the director of the budget and the Advisory Budget Commission.

Sec. 42. Subject to the rules and regulations promulgated by the Department of Administration and approved by the director of the budget, any State department, institution, or agency of the State is hereby authorized to expend, from appropriations made in this act, funds to pay reasonable expenses for transporting the household goods of an employee and members of his household when the transfer of the employee is considered by the director of the budget to be in the best interests of the State.

Sec. 43. The director of the budget with the approval of the Council of State is authorized to make transfers from the Contingency and Emergency Fund for any purpose authorized by law for which no specific appropriation has been made, or when, inadvertently, an insufficient appropriation has been made.

Sec. 44. The director of the budget, with the approval of the Advisory Budget Commission and upon the request of the Governor's Aviation Committee, is authorized and empowered to allocate grants from the appropriations for airport improvements made in Section 2 of this act.

Sec. 45. The Secretary of the Department of Human Resources is authorized to establish rules and regulations applicable to local human resource agencies for the purpose of program evaluation, fiscal audits, and collection of third-party payments.

Sec. 46. It is the intent of this General Assembly that, of the appropriations enumerated above in this act, the elements listed below are to be financed from the General Revenue Sharing Trust Fund of the State.

Public Schools, Direct Financial Support of Local School Systems Programs, Support Services at the Local Level Subprogram

	1975-76	1976-77
Pupil Transportation Element:		
Operational Costs	$36,712,159	$36,441,040
Bus Replacement	6,525,809	5,010,760
Textbooks Element	5,541,862	
Total	$48,779,830	$41,451,800

Sec. 47. There is hereby repealed G.S. 135-4(m) and G.S. 135-5(u) which require that the employer portion of the annual cost to fund the provisions of G.S. 135-4(f)(6), (k) and (l) and G.S. 135-5, subsections (s) and (t) shall be paid by the employer based on the employer contribution rate as determined by the actuary and no cost shall be paid from funds now held by the Retirement System.

Sec. 48. Subject to legislative action to transfer the Division of Youth Development and the training schools of the Department of Correction to the Department of Human Resources, it is the intent of the General Assembly that all funds appropriated in this act for the administration and operation of the Division of Youth Development and the schools shall be transferred to the Department of Human Resources.

Sec. 49. Grant-in-aid funds appropriated to the Department of Cultural Resources, as a supplement to private funds for expenses incurred by the North Carolina Symphony Orchestra, shall be the responsibility of and administered by the North Carolina Symphony Society, Inc., subject to audit and recommendations by the State Auditor.

It is the intent of the appropriation made for administration of the North Carolina Symphony that the Department of Cultural Resources be responsible for the expenditure of funds for administration and have authority over the employment of administrative personnel, subject to the provisions of G.S. 126. The department may seek the advice and assistance of the North Carolina Symphony Society, Inc., in administrative personnel actions.

Sec. 50. There is appropriated in Section 2 of this act a reserve for merit salary increases to permanent college academic personnel and permanent community college personnel whose salaries are exempt from the State Personnel Act.

The director of the budget is authorized and empowered to transfer from that reserve to the appropriate departments an amount for merit salary increases. The total amount of funds are to be allocated to individuals according to rules and regulations established by the Board of Governors of The University of North Carolina and the State Board of Education.

The director of the budget is authorized and empowered to allocate, out of special operating funds, or from sources other than tax revenues under which personnel exempt from the State Personnel Act are employed, sufficient funds to conform with the provisions of this section, provided necessary funds are available or made available by sponsoring agents. The director of the budget is further authorized to promulgate special rules and regulations to apply to merit salary increases for employees whose salaries are paid from inter-agency receipts, where payments for the services of such employees originate from State appropriations, as long as the effective purchasing power of such appropriations is not materially reduced as a result of these merit increases. Any question as to the applicability of the provisions of this section shall be resolved by the director of the budget and the Advisory Budget Commission.

Salaries for positions which are paid partially from the General Fund and partially from sources other than the General Fund shall be increased from the General Fund appropriation only to the extent of the proportionate part of the salaries paid from the General Fund.

Sec. 51. The director of the budget is authorized and empowered to transfer to General Fund budget codes from the General Fund salary adjustment appropriation, and to Highway Fund budget codes from the Highway Fund salary adjustment appropriation, such amounts as may be required to support approved salary adjustments made necessary by difficulties in recruiting and holding qualified employees in State Government. These funds are intended to be transferred only when the use of salary reserve funds in individual operating budgets is not feasible.

Sec. 52. The salary per annum of the following shall be:

Chief Justice, Supreme Court		$ 39,000
Associate Justice, Supreme Court		38,000
Chief Judge, Court of Appeals		36,500
Judge, Court of Appeals		35,500
Judge, Superior Court		30,500
Chief Judge, District Court		24,500
Judge, District Court		23,500
Solicitor or District Attorney		27,000
Assistant Solicitor or Assistant District Attorney	an average of	17,500
Administrative Officer of the Courts		32,500
Assistant Administrative Officer of the Courts		24,000
Public Defender		27,000
Assistant Public Defender	an average of	17,500

The minimum salary of any Assistant Solicitor or Assistant District Attorney and Assistant Public Defender shall be twelve thousand dollars ($12,000) per annum; provided, that on recommendation of the District Attorney or the Public Defender with the approval of the Administrative Officer of the Courts the salaries of Assistant District Attorneys and Assistant Public Defenders may be adjusted so long as the average salaries of Assistant District Attorneys and Assistant Public Defenders in a judicial district do not exceed seventeen thousand five hundred dollars ($17,500).

Sec. 53. It is the intent of this General Assembly that the Employee Disability Salary Continuation Program be shifted from a pre-paid premium basis to a pay-as-you-go basis. Beginning July 1, 1975, funds budgeted for the existing Employee Disability Salary Continuation Program ($3.00 per month per employee) shall be used to pay the increased employee cost for hospitalization insurance ($3.50 per month per employee) which becomes effective October 1, 1975. Funds budgeted for Disability Salary Continuation in 1975-76 which are not required for hospitalization insurance in 1975-76 may be transferred to 1976-77, to the extent necessary, to fund hospitalization insurance. Employee disability salary continuation payments payable in 1975-77 shall be paid by the N. C. Teachers' and State Employees' Retirement System from the existing reserves and interest income of the Disability Salary Continuation Program Fund.

Sec. 54. In an effort to balance the 1975-77 budget, it was necessary to make reductions in personnel and to eliminate certain programs. To assure that the intent of the General Assembly is followed, no department of State government may transfer funds within its budget to fund positions or programs eliminated, except upon approval of the Governor and Advisory Budget Commission.

Sec. 55. The Day-Care Licensing Element of the Department of Administration shall not be transferred to any other department.

Sec. 56. It is the intent and purpose of the General Assembly at its 1976 Session to establish as its first priority the funding of equal salary increases in 1976-77 for all State employees, including those subject to and exempt from the State Personnel Act, highway employees, public school employees and staff members of community colleges and higher educational institutions.

Sec. 57. The appropriation made in Section 2 of this act to the Governor's office for the ombudsman program is to be reviewed by the Governor and Advisory Budget Commission in preparing the next budget to determine if that program should be continued beyond the 1975-77 biennium.

Sec. 58. Funds appropriated in Section 2 of this act to the State Board of Education provide for the improvement of reading instruction in the public schools. These funds are to be expended in accordance with a plan to be submitted to the Governor and Advisory Budget Commission specifying how programs will be designed, developed and evaluated. These funds for reading improvement shall be non-recurring and non-reverting and the approved programs shall be completed no later than June 30, 1978.

Sec. 59. There is herein appropriated to the General Assembly ten thousand dollars ($10,000) in 1975-76 to support a special study commission which is to make a detailed examination of the programs of research, development, evaluation, and assessment within the Department of Public Instruction and do such other studies as the commission might determine to be pertinent in evaluating these programs in order to determine the effectiveness of said programs and whether they should be transferred, in whole or in part, expanded or decreased.

This study commission shall consist of one co-chairperson and six other members to be appointed by the Speaker of the House, four of whom shall be members of the House of Representatives and three members of the public at large; one co-chairperson and six other members to be appointed by the President of the Senate, four of whom shall be members of the Senate and three members of the public at large. Appointments to this study commission are to be made by August 15, 1975, and upon their appointment the co-chairpersons shall organize and begin work as they deem appropriate. This commission shall report to the General Assembly at the convening of its 1976 session.

Sec. 60. It is the intent of this act that the Board of Governors shall set tuition rates for nonresident students who are enrolled in the constituent institutions of the University of North Carolina and that such existing annual rates be increased by approximately one hundred dollars ($100.00) for the academic year beginning on or about September 1, 1975.

It is the further intent of this act that the State Board of Education shall set tuition rates for nonresident students who are enrolled in the institutions of the Community College System and that such existing annual rates be increased by approximately one hundred dollars ($100.00) for the academic year beginning on or about July 1, 1975. Registration fees for extension courses for which instruction is financed primarily from State funds shall be increased to three dollars ($3.00) per course beginning on or about July 1, 1975.

Sec. 61. The provisions of the Executive Budget Act, Chapter 143, Article 1, of the General Statutes, are re-enacted and shall remain in full force and effect, and are incorporated in this act by reference.

Sec. 62. If any section or provision of this act be declared unconstitutional or invalid by the courts, the same shall not affect the validity of the act as a whole or any part other than the part so declared to be unconstitutional or invalid.

Sec. 63. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 64. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

S. B. 498 CHAPTER 876

AN ACT TO AMEND CHAPTER 156 PRIVATE LAWS OF 1929 AS AMENDED BY CHAPTER 35 PRIVATE LAWS OF 1931 RELATING TO THE CITY OF ASHEVILLE BOXING AND WRESTLING COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. The Establishment of the City of Asheville Boxing and Wrestling Commission. There is hereby established The City of Asheville Boxing and Wrestling Commission (hereinafter referred to as "commission") to regulate and control boxing and wrestling in the City of Asheville. The members of the present Asheville Boxing and Wrestling Commission shall constitute the members of said commission and shall hold office for the period of their present appointment. Thereafter, their successors shall be appointed by the governing body of the City of Asheville for the term of four years. The commission shall maintain general offices for the transaction of business in the City of Asheville. There shall be three members of the commission and the members of the commission shall elect one of its members chairman and one of its members secretary-treasurer. Two of the members of the commission shall constitute a quorum to do business and a concurrence of at least two commissioners shall be necessary to render a choice or decision by the commission. Each member of the commission shall be entitled to receive his actual and necessary travel and other expenses incurred by him in the performance of his official duties and in addition thereto, the governing body of the City of Asheville shall have the authority by its budget to annually establish such salaries as they shall determine from time to time for the remuneration of the members of the commission. The secretary of the commission shall be authorized to collect license fees and other fees as herein set forth. Said secretary-treasurer shall give a bond to the City of Asheville in such amount as shall be determined by the governing body of the City of Asheville, said bond to be conditioned upon the faithful performance of his duties by said secretary-treasurer.

Sec. 2. Meetings and Reports of the Commission. The commission shall meet at least annually and at such additional times, upon the call of the chairman, as may be necessary to conduct the business of the commission. Any member of the commission shall have the authority to call a meeting of the commission upon 10 days' written notice to the other members of the commission. When one member of the commission shall have to attend events regulated by the commission, in order to supervise such event in any capacity or capacities, such member shall be compensated at the rate of twenty-five dollars ($25.00) per event. There shall be a record made by the secretary-treasurer of

all of the proceedings before the commission and a report shall be made annually to the City of Asheville of the commission's proceedings for the year and such recommendations pertaining to its affairs as it shall deem desirable. At the time of the making of the report, there shall be also included a full and detailed statement of all of the receipts and disbursements, including expenses of the commission, during the preceding year and any surplus funds, less reasonable cash reserves for anticipated expenses, shall be paid over to the City of Asheville.

Sec. 3. Power of Commission. The commission shall have and it is hereby vested with the sole direction, management, control of and jurisdiction over all boxing, sparring and wrestling matches and exhibitions to be conducted, held or given within the City of Asheville, by any person, club, corporation or association; and no boxing, sparring or wrestling match or exhibition shall be conducted, held or given in said city except pursuant to its authority and in accordance with the provisions of this act.

The commission shall have authority to make reasonable rules and regulations with respect to the following:

(1) Buildings in which boxing, sparring or wrestling matches shall be held, such rules and regulations to be in conformity to the building code for the State of North Carolina.

(2) Publication of the price of admission.

(3) Resale of tickets of admission in excess of their original prices.

(4) Any sham or fake boxing, sparring or wrestling match or exhibition.

(5) For the prevention of the making of any wager with respect to the outcome of any events.

(6) For the length of the rounds of boxing or sparring matches and the weight of boxing gloves.

(7) For the prevention of receiving or accepting any money or presents from any boxer or exhibitor or wrestler for some special privilege or for discriminating in the matters of making a match.

(8) For the prevention of the sale of intoxicating beverages or the consumption of the same within the premises in which a boxing, sparring or wrestling match is being held.

(9) For the physical fitness of any participant in any boxing, sparring or wrestling match.

(10) For the regulation of live or delayed radio or television broadcasting of events under the supervision of the commission.

(11) For such other purposes as shall promote the wholesome exhibition of boxing and wrestling and the safety and health of the participants and their viewing audience.

Sec. 4. Participant Licenses. The commission may issue licenses to the following upon a satisfactory showing to the commission that the persons applying for the license are persons of good moral character and have not committed a felony and that they are physically and mentally able to perform in the events and for the purposes for which they are licensed, after the payment of the license fees set opposite their titles:

Boxers	$10.00
Wrestlers	$10.00
Managers	$10.00
Referees	$10.00
Physicians	$ 5.00

Timekeepers	$ 5.00
Announcers	$ 5.00
Promoters	$25.00
Seconds	$ 5.00

Licenses shall be good for one year from date of issue and the commission shall have the authority to revoke the licenses upon an adequate showing that the licensee has violated any of the rules of the commission or this act or has committed any criminal act or is no longer physically able to perform in the events for which he is licensed.

Sec. 5. Promoters Event License. Every person, club, corporation or association which may hold or exercise any of the privileges conferred by this act shall within 24 hours after the determination of every contest furnish to the commission a written report, under oath, showing the exact number of tickets sold for such contest and amount of gross proceeds thereof, and such other matters as the commission may prescribe, and shall within the said time pay to said commission a license fee of five percent (5%) of the total gross proceeds from the sale of tickets of admission and the sale of radio and television, including closed circuit television, or motion picture rights, to such boxing, sparring or wrestling match, contest or exhibition for either live performances or by closed circuit television, provided, however, that proceeds of any event subject to regulation by the commission and held in the Asheville Civic Center shall not be disbursed to such person, firm or corporation until the commission has certified in writing to the city manager of the City of Asheville or his designee that all fees due the commission with reference to such event have been received by the commission; this section shall not apply to veterans' organizations, civic clubs, fraternal organizations, or eleemosynary organizations.

Sec. 6. Promoters Bond. Before any licenses shall be granted to any person, club, corporation or association to conduct, hold, promote or give any boxing, sparring or wrestling match or exhibition such applicant thereafter shall execute and file with the commission a bond in the sum of five hundred dollars ($500.00), to be approved as to form and the sufficiency of the sureties thereon, by the commission, conditioned upon the payment of the license fees hereby imposed for all of the participants, and further conditioned upon the payment of all debts of the promoter due the commission or the City of Asheville for the promotion of such matches or exhibitions.

Sec. 7. Interscholastic or Intercollegiate Boxing and Wrestling. Nothing in this act shall be construed to apply to any interscholastic or intercollegiate boxing or wrestling match in the City of Asheville in which members of such schools are participating; this section shall not apply to veterans' organizations, civic clubs, fraternal organizations, or eleemosynary organizations.

Sec. 8. Penalty for Violation of this Act. Any persons who violate the provisions of this act or any of the rules made by the commission in conformity with the authority herein granted shall be guilty of a misdemeanor and subject to a fine of not more than fifty dollars ($50.00) or imprisonment for not more than 30 days; this section shall not apply to veterans' organizations, civic clubs, fraternal organizations, or eleemosynary organizations.

Sec. 9. Repeal. All laws and ordinances not in conformity with this act are hereby repealed.

Sec. 10. Severability. If any portion of this act shall be found unconstitutional, those parts of this act which are not so found unconstitutional shall be and remain in full force and effect.

Sec. 11. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

S. B. 943 **CHAPTER 877**

AN ACT TO CREATE A NORTH CAROLINA ENERGY POLICY COUNCIL TO DEVELOP RECOMMENDATIONS FOR A COMPREHENSIVE, LONG-TERM STATE ENERGY POLICY AND TO ESTABLISH PROCEDURES FOR ENERGY CRISIS ADMINISTRATION UNDER THE DEPARTMENT OF MILITARY AND VETERANS AFFAIRS.

The General Assembly of North Carolina enacts:

Section 1. This act shall be known as the North Carolina Energy Policy Act of 1975.

Sec. 2. G.S. 62-2 is hereby amended by deleting the entire section and substituting therefor the following:

"§ 62-2. *Declaration of policy.*—Upon investigation, it has been determined that the rates, services and operations of public utilities as defined herein, are affected with the public interest and that the availability of an adequate and reliable supply of electric power and natural gas to the people, economy and government of North Carolina is a matter of public policy. It is hereby declared to be the policy of the State of North Carolina:

(1) to provide fair regulation of public utilities in the interest of the public;

(2) to promote the inherent advantage of regulated public utilities;

(3) to promote adequate, reliable and economical utility service to all of the citizens and residents of the State;

(4) to provide just and reasonable rates and charges for public utility services without unjust discrimination, undue preferences or advantages, or unfair or destructive competitive practices and consistent with long-term management and conservation of energy resources by avoiding wasteful, uneconomic and inefficient uses of energy;

(5) to encourage and promote harmony between public utilities, their users and the environment;

(6) to foster the continued service of public utilities on a well-planned and coordinated basis that is consistent with the level of energy needed for the protection of public health and safety and for the promotion of the general welfare as expressed in the State energy policy;

(7) to seek to adjust the rate of growth of regulated energy supply facilities serving the State to the policy requirements of statewide development; and

(8) to cooperate with other states and with the federal government in promoting and coordinating interstate and intrastate public utility service and reliability of public utility energy supply.

To these ends, therefore, authority shall be vested in the North Carolina Utilities Commission to regulate public utilities generally, their rates, services and operations, and their expansion in relation to long-term energy conservation and management policies and statewide development requirements, and in the

manner and in accordance with the policies set forth in this Chapter. Nothing in this Chapter shall be construed to imply any extension of Utilities Commission regulatory jurisdiction over any industry or enterprise that is not subject to the regulatory jurisdiction of said Commission."

Sec. 3. Legislative findings and purpose. Upon investigation the General Assembly hereby finds that:

(1) Energy is essential to the health, safety and welfare of the people of this State and to the workings of the State economy;

(2) Growth in the consumption of energy resources is in some part due to wasteful, uneconomic and inefficient uses of energy and a continuation of this trend will adversely affect the future social, economic and environmental development of North Carolina;

(3) It is the responsibility of State government to encourage a reliable and adequate supply of energy for North Carolina at a level consistent with such energy needs required for the protection of public health and safety, and for the promotion of the general welfare; and

(4) the State has not provided the basis for development of a long-range unified energy policy to encompass comprehensive energy resource planning and efficient management of the rate of consumption of existing energy resources in relation to economic growth, to effectively meet an energy crisis, to encourage development of alternative sources of energy, and to prudently conserve energy resources in a manner consistent with assuring a reliable and adequate supply of energy for North Carolina.

(5) It is the expressed intent of this act to provide for development of such a unified energy policy for the State of North Carolina.

Sec. 4. The General Statutes of North Carolina are hereby amended by adding a new Chapter 166A to read as follows:

"Chapter 166A. Energy Policy.

"Article 1.

"Energy Policy Council.

"§ 166A-1. *Creation of Energy Policy Council; purpose of council.*—(a) There is hereby created a council, to advise and make recommendations on energy policy to the Governor and the General Assembly to be known as the Energy Policy Council which shall be located within the Department of Military and Veterans Affairs.

(b) Notwithstanding any other provision of this Chapter, the provisions of the Executive Organization Act of 1973 or any other statute, the Energy Policy Council shall have the duty of recommending energy programs to the Governor and the General Assembly pursuant to this Article. The Energy Policy Council shall carry out its responsibilities under Articles 1 and 2 of this Chapter independently of the Secretary of the Department of Military and Veterans Affairs.

(c) The Energy Policy Council shall serve as the central energy policy planning body of the State and shall communicate and cooperate with federal, State, regional and local bodies and agencies to the end of effecting a coordinated energy policy.

"§ 166A-2. *Composition of council; appointments; terms of members; qualifications.*—(a) The Energy Policy Council shall consist of 14 members to be appointed as follows:

(1) Two members of the North Carolina House of Representatives to be appointed by the Speaker of the House of Representatives;

(2) Two members of the North Carolina Senate to be appointed by the President of the Senate;

(3) Seven public members who are citizens of the State of North Carolina to be appointed by the Governor;

(4) The Chairman of the North Carolina Utilities Commission, the Secretary of the Department of Natural and Economic Resources and the Commissioner of Agriculture shall serve as members of the Energy Policy Council.

(b) Initial appointments to the Energy Policy Council shall be made by July 15, 1975, and each such appointee shall serve until January 31, 1977. Thereafter, the appointed members of the General Assembly shall serve two-year terms, and the appointed public members shall serve four-year terms. A member of the Energy Policy Council shall continue to serve until his successor is duly appointed, but such holdover shall not affect the expiration date of such succeeding term.

(c) The public members of the Energy Policy Council shall have the following qualifications:

(1) One such member shall be experienced in the electric power industry;

(2) One such member shall be experienced in the natural gas industry;

(3) One such member shall be experienced in the petroleum marketing industry;

(4) One such member shall be experienced in economic analysis of energy requirements;

(5) One such member shall be experienced in environmental protection;

(6) One such member shall be experienced in industrial energy consumption;

(7) One such member shall be knowledgeable of alternative sources of energy.

"§ 166A-3. *Chairman of council; replacement; reimbursement of members.*—(a) On July 15, 1975, on January 31, 1977, and every four years thereafter, the Governor shall designate one of the members of the Energy Policy Council to serve as chairman of the council.

(b) In case of a vacancy in the membership on the Energy Policy Council prior to the expiration of a member's term, a successor shall be appointed within 30 days of such vacancy for the remainder of the unexpired term by the appropriate official pursuant to the provisions of G.S. 166A-2.

(c) Members of the Energy Policy Council shall be reimbursed for their services pursuant to the provisions of G.S. 138-5. Funds for said purpose shall be paid from the Contingency and Emergency Fund.

"§ 166A-4. *Organization of the council; adoption of rules of procedure therefor.*—(a) To facilitate the work of the Energy Policy Council and for administrative purposes, the Chairman of the Energy Policy Council, with the consent and approval of the members, may organize the work of the council so as to carry out the provisions of this Chapter and to insure the efficient operation of the council.

(b) The Energy Policy Council shall adopt its own rules of procedure and shall meet regularly at such times and in such places as it may deem necessary to carry out its functions.

(c) The Energy Policy Council is authorized to create such advisory committees as will be needed to assist the council in its efforts and to assure adequate citizen-consumer input into those efforts. Members of advisory committees shall be appointed by the council for terms not to exceed the expiration date of terms of then present public members of the council.

"§ 166A-5. *General duties and responsibilities.*—The Energy Policy Council shall have the following general duties and responsibilities:

(1) To develop and recommend to the Governor a comprehensive long-range State energy policy to achieve maximum effective management and use of present and future sources of energy, such policy to include but not be limited to an energy conservation plan, an energy management plan, an emergency energy program, and an energy research and development program;

(2) To conduct an ongoing assessment of the opportunities and constraints presented by various uses of all forms of energy and to encourage the efficient use of all such energy forms in a manner consistent with State energy policy;

(3) To continually review and coordinate all State government research, education and management programs relating to energy matters and to continually educate and inform the general public regarding such energy matters;

(4) To recommend to the Governor and to the General Assembly needed energy legislation and to recommend for implementation such modifications of energy policy, plans and programs as the council considers necessary and desirable.

"§ 166A-6. *Energy Conservation Plan; components.*—(a) The Energy Policy Council shall prepare a recommended Energy Conservation Plan for transmittal to the Governor, the initial plan to be completed by January 30, 1976.

(b) The Energy Conservation Plan shall be designed to assure the public health and safety of the people of North Carolina and to encourage and promote conservation of energy through reducing wasteful, inefficient or uneconomical uses of energy resources.

(c) The Energy Conservation Plan shall include but not be limited to the following recommendations:

(1) Recommendations to the Building Code Council for lighting, insulation, climate control systems and other building design and construction standards which increase the efficient use of energy and are economically feasible to implement;

(2) Recommendations to the Building Code Council for per unit energy requirement allotments based upon square footage for various classes of buildings which would reduce energy consumption, yet are both technically and economically feasible and not injurious to public health and safety;

(3) Recommendations for minimum levels of operating efficiency for all appliances whose use requires a significant amount of energy based upon both technical and economic feasibility considerations;

(4) Recommendations for State government purchases of supplies, vehicles

and equipment and such operating practices as will make possible more efficient use of energy;

(5) Recommendations on energy conservation policies, programs and procedures for local units of government;

(6) Any other recommendations which the Energy Policy Council considers to be a significant part of a statewide conservation effort and which include provisions for sufficient incentives to further energy conservation;

(7) An economic and environmental impact analysis of the recommended plan.

(d) In addition to specific conservation recommendations, the Energy Conservation Plan shall contain proposals for implementation of such recommendations as can be carried out by Executive Order. Upon completion of a draft recommended plan, the council shall arrange for its distribution to interested parties and shall make such plan available to the public and the council further shall set a date for public hearing on said plan.

(e) Upon completion of the Energy Conservation Plan, the council shall transmit said plan, to be known as the State Energy Conservation Plan, to the Governor for approval or disapproval. Upon approval, the Governor shall assign administrative responsibility for such implementation as can be carried out by Executive Order to appropriate agencies of State government, and submit to the General Assembly such proposals which require legislative action for implementation.

(f) The Governor shall transmit the approved Energy Conservation Plan to the President of the Senate, to the Speaker of the House of Representatives, to the heads of all State agencies and shall further seek to publicize such plan and make it available to all units of local government and to the public at large.

(g) At least every two years and whenever such changes take place as would significantly affect energy supply or demand in North Carolina, the Energy Policy Council shall review and, if necessary, revise the Energy Conservation Plan, transmitting such revised plan to the Governor pursuant to the procedures contained in subsections (e) and (f) of this section.

"§ 166A-7. *Energy Management Plan; components.*—(a) The Energy Policy Council shall prepare a recommended Energy Management Plan for transmittal to the Governor, the initial plan to be completed by June 30, 1976.

(b) The Energy Management Plan shall be designed to encourage the most efficient use of all sources of energy available to meet the needs of the State and to avoid undue dependence upon relatively limited, unreliable or uneconomical sources of energy.

(c) The Energy Management Plan shall include but not be limited to the following:

(1) An analysis of the current pattern of consumption of energy throughout the State by category of energy user and by sources of energy supply;

(2) An assessment of the effect of demand and supply of different forms of energy upon the current pattern of consumption;

(3) An independent analysis, in five-, ten- and twenty-year forecasts, of future energy production, supplies and consumption for North Carolina

in relation to forecasts of statewide population growth and economic expansion;

(4) An analysis of the anticipated effects of recommended conservation measures upon the consumption of energy in the State;

(5) An assessment of the possible effects of national energy and economic policy and international economic and political conditions upon an adequate and reliable supply of different forms of energy for North Carolina;

(6) An assessment of the social, economic and environmental effects of alternative future consumption patterns on energy usage in North Carolina, including the potentially disruptive effects of supply limitations;

(7) Recommendations on the use of different future energy sources that seem most appropriate and feasible for North Carolina in meeting expected energy needs during the next five-, ten- and twenty-year periods, with consideration given to growth trends in North Carolina industry and possible adverse economic impact on such trends.

(d) In addition to the above, the Energy Management Plan shall contain proposals for the implementation of such recommendations as can be carried out by Executive Order. Upon completion of a draft recommended plan, the council shall arrange for its distribution to interested parties and shall make such plan available to the public and the council further shall set a date for public hearing on said plan.

(e) Upon completion of the Energy Management Plan, the council and the Governor shall follow the procedures as outlined in G.S. 166A-6(e) and (f).

(f) The council shall update such plan upon a finding by it that an update is justified and shall follow the procedures for adoption pursuant to G.S. 166A-6(e) and (f).

"§ 166A-8. *Emergency Energy Program; components.*—(a) The Energy Policy Council shall, in accordance with the provisions of this Article, develop contingency and emergency plans to deal with possible shortages of energy to protect public health, safety and welfare, such plans to be compiled into an Emergency Energy Program.

(b) Within four months of the effective date of this Article:

(1) Each electric utility and natural gas utility in the State shall prepare and submit to the Energy Policy Council a proposed emergency curtailment plan setting forth proposals for identifying priority loads or users in the event of the declaration of an energy crisis pursuant to G.S. 166A-20, and proposals for supply allocation to such priority loads or users.

(2) Each major oil producer doing business in this State as determined by the Energy Policy Council, shall prepare and submit to the Energy Policy Council an analysis of how any national supply curtailment pursuant to federal regulations shall effect the supply for North Carolina and how priority users will be determined and available supplies allocated to such users.

(c) The Energy Policy Council shall encourage the preparation of joint emergency curtailment plans and analyses. If such cooperative plans and analyses are developed between two or more utilities, major producers or by an association of such companies, the joint plans or analyses may be submitted to

the Energy Policy Council in lieu of information required pursuant to subsection (b) of this section.

(d) The Energy Policy Council shall collect from all relevant governmental agencies any existing contingency plans for dealing with sudden energy shortages or information related thereto.

(e) The Energy Policy Council shall hold one or more public hearings, investigate and review the plans submitted pursuant to this section, and, within nine months after the effective date of this Article, the Energy Policy Council shall approve and recommend to the Governor guidelines for emergency curtailment to be known as the Emergency Energy Program and to be implemented upon adoption by the Governor after the declaration of an energy crisis and pursuant to G.S. 166A-20 and G.S. 166A-23. Said program shall be based upon the plans presented to the Energy Policy Council, upon independent analysis and study by the council, and upon information provided at the hearing or hearings, provided, however, that they are consistent with such federal programs and regulations as are already in effect at that time.

(f) The Emergency Energy Program shall provide for the maintenance of essential services, the protection of public health, safety, and welfare, and the maintenance of a sound basic State economy. Provisions also shall be made in said program to differentiate curtailment of energy consumption by users on the basis of ability to accommodate such curtailments, and shall also include, but not be limited to, the following:

(1) A variety of strategies and staged conservation measures of increasing intensity and authority to reduce energy use during an energy crisis, as defined in G.S. 166A-20 and guidelines and criteria for allocation of energy sources to priority users. The program shall contain alternative conservation actions and allocation plans to reasonably meet various foreseeable shortage circumstances and to allow a choice of appropriate responses;

(2) Evidence that the program is consistent with requirements of federal emergency energy conservation and allocation laws and regulations;

(3) Proposals to assist such individuals, institutions, agriculture and businesses which have engaged in energy saving measures;

(4) Procedures for implementing the State's responsibility as delegated by the Federal Mandatory Allocation Program for Middle Distillate Fuels as set forth in Chapter XIII of Title 32A, Code of Federal Regulations, as well as any succeeding federal programs, laws, orders, rules or regulations relating to the allocation, conservation or consumption of energy resources, including the Emergency Petroleum Allocation Act of 1973 and all orders, rules and regulations pursuant thereto; and

(g) The Energy Policy Council shall carry out such investigations and studies as are necessary to determine if and when potentially serious shortages of energy are likely to affect North Carolina and the council shall make recommendations to the Governor concerning administrative and legislative actions required to avert such shortages, such recommendations to be included as a section of the Emergency Energy Program.

(h) In addition to the above information and recommendations, the program shall contain proposals for implementation of such recommendations which include procedures, rules and regulations and agency administrative responsibilities for implementation, and shall further contain procedures for fair

and equitable review of complaints and requests for special exemptions from emergency conservation measures or emergency allocations. Upon completion of a draft recommended plan, the council shall arrange for its distribution to interested parties and shall make such plan available to the public and the council further shall set a date for public hearing on said plan.

(i) Upon completion of the Emergency Energy Allocation Program, the council and the Governor shall follow the procedures as outlined in G.S. 166A-6 (e) and (f).

(j) The council shall update said program every three years and shall follow the procedures for adoption pursuant to G.S. 166A-6(e) and (f).

"§ 166A-9. *Energy Research and Development Program; information gathering; coordination of energy research and planning.*—(a) The Energy Policy Council shall encourage, through its activities, research studies and projects which are related to energy conservation and management and to the development of alternative energy technologies.

(b) The council shall develop and coordinate a statewide program of research and development in energy related matters and shall give priority in encouraging and supporting such efforts to those areas of energy research and development which are of particular importance to North Carolina.

(c) The council shall serve as the central repository within State government for the collection and storage of data and information on energy-related matters. To this end the council shall develop an energy information reporting system for use by all governmental agencies and by the general public.

(d) The council shall review and coordinate all State agency research and planning relating to energy in an effort to reduce duplication of work and shall be the lead State agency for coordination of energy matters with local government, regional organizations, other states and the federal government.

(e) The council may request and utilize the advice, information and services of all State, regional, local and federal agencies and shall cooperate with the President of the United States and all said agencies in matters relating to energy research, programs and policy.

"§ 166A-10. *Powers and authority.*—(a) The Energy Policy Council is authorized to secure directly from any officer, office, department, commission, board, bureau, institution and other agency of the State and its political subdivisions any information it deems necessary to carry out its functions; and all such officers and agencies shall cooperate with the council and, to the extent permitted by law, furnish such information to the council as it may request.

(b) To assure the adequate development of relevant energy information, as provided in G.S. 166A-9, the council may require all energy producers and major energy consumers, as determined by the council, to file such reports and forecasts and at such dates as the council may request; provided, however, that the council may request only specific energy-related information which it deems necessary to carry out its duties as defined in Articles 1 and 2 of this Chapter.

(c) The council shall have authority to apply for and utilize grants, contributions and appropriations in order to carry out its duties as defined in Articles 1 and 2 of this Chapter, provided, however, that all such applications and requests are made through and administered by the Department of Military and Veterans Affairs.

(d) The council shall have authority to request said Division to allocate and dispense any funds made available to the council for energy research and related

work efforts in such a manner as the council desires subject only to the stipulation that said funds be reasonably used in furtherance of the purposes of this Article.

(e) The Department of Military and Veterans Affairs shall structure an energy staff capability so as to provide sufficient permanent staffing for the Energy Policy Council to fully and effectively develop recommendations for a comprehensive State energy policy as contained in the provisions of this Article. The Department shall further designate one such staff person as staff coordinator for the council. The Utilities Commission is hereby authorized to make its staff available to the Council to assist in the development of a State Energy Policy.

"§ 166A-11. *Annual reports; contents.*—(a) Beginning January 1, 1977, and every year thereafter, the Energy Policy Council shall transmit to the Governor, the Speaker of the House of Representatives, the President of the Senate, the Chairman of the Utilities Commission and the appropriate chairmen of the House and Senate committees concerned with energy matters, a comprehensive report providing a general overview of energy conditions in the State. On January 1, 1976, the Energy Policy Council shall transmit a progress report to the public officials named above.

(b) The report shall include, but not be limited to, the following:

(1) An overview of statewide growth and development as they relate to future requirements for energy, including patterns of urban and metropolitan expansion, shifts in transportation modes, modifications in building types and design, and other trends and factors which, as determined by the council, will significantly affect energy needs;

(2) The level of statewide and multi-county regional energy demand for a five-, ten- and twenty-year forecast period which, in the judgment of the council, can reasonably be met, with proposals as to possible energy supply sources;

(3) An assessment of growth trends in energy consumption and production and an identification of potential adverse social, economic, or environmental impacts which might be imposed by continuation of the present trends, including energy costs to consumers, significant increases in air, water, and other forms of pollution, threats to public health and safety, and loss of scenic and natural areas;

(4) An analysis and evaluation of the means by which the projected annual growth rate of energy demand may be reduced, together with an estimate of the amount of such reduction to be obtained by each of the means analyzed and evaluated;

(5) The status of the council's ongoing energy research and development program and an assessment of the energy research and planning efforts carried out in North Carolina;

(6) Recommendations to the Governor and the General Assembly for additional administrative and legislative actions on energy matters;

(7) A summary of the council's activities since its inception, a description of major plans developed by the council, an assessment of plan implementation, and a review of council plans and programs for the coming biennium.

"Article 2.

"Energy Crisis Administration.

"§ 166A-20. *Definition; declaration of energy crisis.*—(a) 'Energy Crisis' - An energy crisis exists when the health, welfare or safety of the citizens of North Carolina are threatened by reason of an actual or impending acute shortage in usable, necessary energy resources.

(b) Upon a finding by the Governor that the conditions stated in subsection (a) do exist, the Governor may declare the existence of an energy crisis.

"§ 166A-21. *Creation of Legislative Committee on Energy Crisis Management.*—(a) There is hereby created a Legislative Committee on Energy Crisis Management to consist of the Speaker as chairman, the Speaker Pro-Tem of the House of Representatives, and the President Pro-Tem and Majority Leader of the Senate. The Lieutenant Governor shall serve as a nonvoting, ex officio member, provided, however, that he shall vote to break a tie.

(b) The Legislative Committee shall convene within 24 hours following the declaration of an energy crisis, as provided in G.S. 166A-20.

(c) Members of the Legislative Committee shall be reimbursed for their services pursuant to the provisions of G.S. 138-5.

"§ 166A-22. *Procedures for adopting emergency proposals; emergency powers.*—(a) Upon the declaration of an energy crisis, the Governor shall submit to the Legislative Committee for its prompt consideration such emergency orders, rules and regulations as deemed necessary to alleviate the effects of the energy crisis.

(b) The Legislative Committee shall act immediately on the Governor's emergency proposals and in no event shall such action be taken later than 48 hours following receipt of said proposals. The Legislative Committee may approve, amend or rescind such emergency proposals as it may deem advisable to alleviate the effects of the energy crisis. If the Legislative Committee fails to act within 48 hours of receipt, the emergency orders, rules or regulations shall become effective as promulgated by the Governor.

(c) No order, rule or regulation promulgated under the provisions of this section shall remain in effect for more than 30 days unless it is renewed by affirmative action of the Legislative Committee.

(d) The Governor's orders, rules and regulations, promulgated, subject to the review of the Legislative Committee, pursuant to this section, may also include, by way of further enumerated example rather than limitation, provisions for the establishment and implementation of programs, controls, standards, priorities, and quotas for the allocation, conservation and consumption of energy resources; the suspension and modification of existing standards and requirements affecting or affected by the use of energy resources, including those relating to air quality control and the hours and days during which public buildings may or may not be required to remain open; and the establishment and implementation of regional programs and agreements for the purposes of coordinating the energy resource programs and actions of the State with those of the federal government and of other states and localities.

"§ 166A-23. *Administration of plans and procedures.*—(a) Upon the declaration of an energy crisis, pursuant to G.S. 166A-20, the Energy Policy

Council shall become the emergency energy coordinating body for the State and shall carry out the following duties:

(1) Identify and determine the nature and severity of expected energy shortages;

(2) Provide for daily communications with and gather information from significant energy producers, distributors, transporters and major consumers, as determined by the Energy Policy Council, to carry out its responsibilities pursuant to this section;

(3) Provide data, carry out continuing assessments of the crisis situation, and make recommendations to the Governor and to the Legislative Committee for further action.

(b) Upon the declaration of an energy crisis and upon the approval of the Legislative Committee, the Governor shall order the Energy Policy Council, the Utilities Commission, the Attorney General and other appropriate State and local agencies to implement and enforce the Emergency Energy Program pursuant to G.S. 166A-8 and any emergency rules, orders or regulations approved pursuant to G.S. 166A-22.

(c) Upon the declaration of an energy crisis, the Governor may employ such measures and give such direction to State and local offices and agencies as may be reasonable and necessary for the purpose of securing compliance with the provisions of this Article and with emergency rules, orders and regulations issued pursuant to G.S. 166A-22.

"§ 166A-24. *Enforcement; penalties for violations.*—(a) The Attorney General and the law enforcement authorities of the State and its political subdivisions shall enforce the provisions of this Article and all orders, rules and regulations promulgated pursuant to G.S. 166A-22.

(b) Any person who violates this Article or any rules, orders or regulations promulgated pursuant to G.S. 166A-22 or knowingly or willfully submits false information in any report required herein shall be guilty of a misdemeanor punishable as provided in G.S. 14-3.

(c) The provisions of this Article or any rules, orders or regulations promulgated pursuant to G.S. 166A-22 may be enforced by bringing an action to enjoin such acts or practices as may be in violation and, upon a proper showing, a temporary restraining order or a preliminary or permanent injunction shall be issued. The relief sought may include a mandatory injunction commanding any person to comply with any such order, rule or regulation and restitution of money received in violation of any such order, rule or regulation. The Attorney General shall bring any action under this subdivision upon the request of the Governor, the Legislative Committee on Energy Crisis Management, the Energy Policy Council, or upon his direction if he deems such action advisable and in the public interest. The Attorney General may institute such action in the Superior Court of Wake County, or, in his discretion, in the Superior Court of the county in which the acts or practices constituting a violation occurred, are occurring or may occur."

Sec. 5. If any provision of this act shall be held invalid, the remainder of this act shall not be affected thereby.

Sec. 6. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

S. B. 945 **CHAPTER 878**

AN ACT TO VALIDATE ACKNOWLEDGMENTS OF NOTARY PUBLICS PRIOR TO JANUARY 1, 1975.

The General Assembly of North Carolina enacts:

Section 1. G.S. 47-53.1, as the same appears in the 1966 Replacement Volume 2A, is hereby amended by changing the date in the last line thereof from January 1, 1963, to January 1, 1975.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 1247 **CHAPTER 879**

AN ACT TO FURTHER EFFECTUATE THE REORGANIZATION OF STATE GOVERNMENT.

The General Assembly of North Carolina enacts:

Section 1. There is hereby re-created and reconstituted the following principal State department to be known as the Department of Administration with the organization, powers and duties as hereinafter defined and as further defined in the Executive Organization Act of 1973.

DEPARTMENT OF ADMINISTRATION

Sec. 2. Department of Administration; creation. There is hereby re-created and reestablished a department to be known as the "Department of Administration," with the organization, powers, and duties defined in the Executive Organization Act of 1973.

Sec. 3. Duties of the Department. It shall be the duty of the Department of Administration to serve as a staff agency to the Governor and to provide for such ancillary services as the other departments of State government might need to insure efficient and effective operations.

Sec. 4. Functions of the Department of Administration. (a) The functions of the Department of Administration shall comprise, except as otherwise expressly provided by the Executive Organization Act of 1973 or by the Constitution of North Carolina, all functions of the executive branch of the State in relation to interdepartmental administration previously delineated and further including those prescribed powers, duties, functions, and responsibilities enumerated in Article 10 of Chapter 143A of the General Statutes of North Carolina.

(b) All such functions, powers, duties and obligations heretofore vested in any agency enumerated in Article 10 of Chapter 143A of the General Statutes of North Carolina, are hereby transferred to and vested in the Department of Administration except as otherwise provided by the Executive Organization Act of 1973. They shall include, by way of extension and not limitation, the functions of (1) the Director of the Department of Administration, (2) the Systems Management Division, (3) the North Carolina Capital Planning Commission, (4) the State Youth Council and the Youth Advisory Board, (5) the North Carolina Human Relations Commission, (6) the North Carolina Commission on Interstate Cooperation, (7) the State Construction Finance Authority, (8) the Marine Science Council, (9) the Southern Interstate Nuclear Compact, and (10) the Council on the Status of Women. Also the functions shall

comprise those specified for the Day-Care Licensing Board in Article 7 of Chapter 110 of the General Statutes, and the North Carolina Manpower Council in Article 29D of Chapter 143 of the General Statutes.

Sec. 5. Head of the Department. The Secretary of Administration shall be the head of the Department.

Sec. 6. Organization of the Department. The Department of Administration shall be organized initially to include the State Goals and Policy Board, the State Personnel Board, the North Carolina Capital Planning Commission, the Child Day-Care Licensing Commission, the North Carolina Drug Commission, the North Carolina Council on Interstate Cooperation, the State Youth Advisory Council, the North Carolina Marine Science Council, the North Carolina Human Relations Council, the Council on the Status of Women, the North Carolina Manpower Council, the Standardization Committee, the Southern Interstate Nuclear Compact, the Division of State Budget and Management, the Division of State Planning, the Division of State Property and Construction, the Division of State Purchase and Contract, the Division of State Personnel, the Division of State Management Systems, the Division of State General Services, and such other divisions as may be established under the provisions of the Executive Organization Act of 1973.

Sec. 7. The State Goals and Policy Board; creation, powers, and duties. There is hereby created the State Goals and Policy Board of the Department of Administration. The State Goals and Policy Board shall have the following functions and duties:

(1) to express the needs and aspirations of North Carolina's citizens and identify the kind of future they want for themselves in the form of goals proposed for State action along with a suggested timetable within which these goals might reasonably be achieved;

(2) to study the resources and means of action available to State government and recommend policies to guide the State in using these resources and means to achieve State goals and suggest short-run goals, consistent with the long-run goals, that should receive priority consideration within a three to five-year frame;

(3) to evaluate the present structure and activities of State government and recommend improvements in management and communication so that the State may pursue its chosen goals in an efficient and well-coordinated manner;

(4) to identify areas of public interest where needs are urgent or present policies inadequate and recommend appropriate study and analysis to provide a basis for evaluating alternative courses of action;

(5) to inform the general public of the main problems facing the State and involve the citizenry in the study and debate of State goals and policy; and

(6) to submit a report to the Governor by November 30 of each year to guide him in preparing his "state of the State" message.

Members of the Board, who are not officers, or employees of the State, shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Board shall constitute a quorum for the transaction of business.

All clerical and other services required by the Board shall be supplied by the Secretary of Administration.

Sec. 8. State Goals and Policy Board; members, selection, quorum, compensation. The State Goals and Policy Board of the Department of Administration shall consist of 16 members, 15 of whom shall be appointed by the Governor and the Governor who shall himself serve as an ex officio member. The composition of the Board shall be citizens whose background, training, and experience qualify them to survey the whole range of State needs, to propose State goals, and to recommend ways for State government to achieve these goals.

The initial members of the State Goals and Policy Board shall be the members of the Council on State Goals and Policy who shall serve for a period equal to the remainder of their current terms on the Council on State Goals and Policy, five of whose appointments expire March 13, 1977, and five of whose appointments expire March 13, 1978, and five of whose appointments expire March 13, 1979. At the end of the respective terms of office of the initial members of the Board, the appointment of their successors shall be for terms of four years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Board created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Board from office in accordance with the provisions of G.S. 143B-16.

The Governor shall serve as chairman of the Board and designate a member to serve in such capacity in his absence. The Board shall meet quarterly and at other times at the call of the chairman.

Sec. 9. State Goals and Policy Board; conforming changes. Article 54 of Chapter 143 of the General Statutes of North Carolina is hereby repealed.

Sec. 10. North Carolina Capital Planning Commission; creation, powers, and duties. There is hereby re-created the North Carolina Capital Planning Commission of the Department of Administration.

a) The Commission shall have the following powers and duties:

(1) to obtain and maintain up-to-date building requirements for State governmental agencies in the city of Raleigh and its environs;

(2) to formulate a long-range capital improvement program as required for State central governmental agencies in the City of Raleigh and its environs and maintain this program up-to-date;

(3) to recommend the acquisition of land as required;

(4) to select the locations for State government buildings, monuments, memorials and improvements in the City of Raleigh and its environs; and

(5) to name any new State government building or any building hereafter acquired by the State of North Carolina in the City of Raleigh and its environs, with the exception of buildings comprising a part of the North Carolina State University, the Dorothea Dix Hospital, or the Governor Morehead School;

(b) The Commission is authorized and empowered to adopt such rules and regulations, not inconsistent with the laws of this State, as may be required by the federal government for grants-in-aid for capital improvement purposes which may be made available to the State by the federal government. This section is to be liberally construed in order that the State and its citizens may benefit from such grants-in-aid.

(c) The Commission shall adopt rules and regulations consistent with the provisions of this Chapter. All rules and regulations not inconsistent with the provisions of this Chapter heretofore adopted by the existing North Carolina Capital Planning Commission shall remain in full force and effect unless and

until repealed or superseded by action of the re-created Commission. All rules and regulations adopted by the Commission shall be enforced by the Department of Administration.

Sec. 11. North Carolina Capital Planning Commission; members, selection, quorum, compensation. The North Carolina Capital Planning Commission of the Department of Administration shall consist of the following ex officio members: the Governor of North Carolina who shall serve as chairman; all members of the Council of State including the Lieutenant Governor, who shall serve as vice-chairman; the Speaker, and four members of the North Carolina House of Representatives, and four members of the North Carolina Senate; and a representative of the City of Raleigh to be designated by the City Council of Raleigh to serve a two-year term to expire at the same date city council members' terms expire. The Lieutenant Governor shall appoint the four members of the Senate on or before July 1, 1975, for two-year terms to expire at the same date General Assembly members' terms expire. The Speaker of the House of Representatives shall appoint the four members of the House on or before July 1, 1975, for two-year terms to expire at the same date General Assembly members' terms expire.

Public officers who are made members of the commission shall be deemed to serve ex officio.

The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Commission shall constitute a quorum for the transaction of business.

All clerical and other services required by the Commission shall be supplied by the Secretary of Administration.

All minutes, records, plans, and all other documents of public record of the State Capital Planning Commission, the Heritage Square Commission, and the former North Carolina Capital Planning Commission shall be turned over to the Department of Administration.

The Commission shall meet quarterly, and at other times at the call of the chairman.

Sec. 12. North Carolina Capital Planning Commission; conforming changes. Article 6 of Chapter 129 of the General Statutes of North Carolina is hereby repealed.

Sec. 13. Child Day-Care Licensing Commission; creation, powers, and duties. There is hereby created the Child Day-Care Licensing Commission of the Department of Administration with the power and duty to adopt rules and regulations to be followed in the licensing and operation of child day-care facilities and day-care plans as provided by Article 7 of Chapter 110 of the General Statutes of North Carolina.

(a) The Child Day-Care Licensing Commission shall have the power and duty to adopt rules and regulations:

(1) for the issuance of licenses to any day-care facility; and

(2) to register day-care plans and to adopt rules and regulations as provided by Article 7 of Chapter 110 of the General Statutes of the State of North Carolina, and to establish standards for "AA" license, only, as authorized by G.S. 110-88(7).

(b) The Commission shall adopt rules and regulations consistent with the provisions of this Chapter. All rules and regulations not inconsistent with the

provisions of this Chapter heretofore adopted by the Child Day-Care Licensing Board shall remain in full force and effect unless and until repealed or superseded by action of the Child Day-Care Licensing Commission. All rules and regulations adopted by the Commission shall be enforced by the Department of Administration.

Sec. 14. Child Day-Care Licensing Commission; members, selection, quorum, compensation. The Child Day-Care Licensing Commission of the Department of Administration shall consist of 15 members, five of whom shall be State officials and 10 of whom shall be citizen members appointed by the Governor as hereinafter provided. The five State officials who shall serve on the Commission shall be the Governor, the Attorney General, the Commissioner of Insurance, the State Superintendent of Public Instruction and the Secretary of Human Resources. Any State official may designate a representative of his department to sit in his place on the commission. The 10 citizen members shall be appointed by the Governor with provision that none shall be employees of the State and at least five of said appointees shall be operators of day-care facilities subject to licensing who are actively engaged in the operation for profit. Of the five operators who are operating for profit, one shall be from a facility licensed for no more than 29 children, three shall be from facilities licensed for no more than 70 children and one operator shall be from a facility licensed for more than 70 children. Three appointees shall be citizens not employed by day-care facilities who have no direct or indirect pecuniary interest in such, but two of whom shall be parents of pre-school children at the time of their appointment. Two appointees shall be operators of non-profit day-care facilities. The initial members of the Commission shall be the appointed members of the Child Day-Care Licensing Board who shall serve for a period equal to the remainder of their current terms on the Child Day-Care Licensing Board, three of whose appointments expire December 31, 1975, four of whose appointments expire December 31, 1977, and three of whose appointments expire December 31, 1980. The terms of each State official, or his designee shall end on the day his term of office ends, whether by death, resignation, or expiration of such term. At the end of the respective terms of office of the initial members of the Commission, their successors shall be appointed for terms of six years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Commission from office for misfeasance, malfeasance, and nonfeasance according to the provisions of G.S. 143B-13.

The Governor shall designate a member of the Commission as chairman to serve in such capacity at the pleasure of the Governor.

The Commission shall meet quarterly, and at other times at the call of the chairman or upon written request of at least six members.

The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Commission shall constitute a quorum for the transaction of business.

All clerical and other services required by the Commission shall be supplied by the Secretary of Administration.

Sec. 15. Child Day-Care Licensing Commission; conforming changes. (a)(1) Whenever the words "Child Day-Care Licensing Board" or "Board" when referring to the Child Day-Care Licensing Board are used or appear in any statute or law of this State, the same shall be deleted and the words "Child Day-Care Licensing Commission" or "Commission" as appropriate shall be inserted in lieu thereof.

(2) Whenever the words "Director of the Child Day-Care Licensing Board", or "Director", when referring to the Director of the Child Day-Care Licensing Board are used or appear in any statute or law of this State, the same shall be deleted and the words "Secretary of Administration" or "Secretary" as appropriate shall be inserted in lieu thereof.

(b) In addition to the foregoing, the following amendments to the General Statutes of North Carolina are hereby made:

(1) G.S. 110-88(8) shall be rewritten to read as follows: "To develop a procedure by which the Department shall furnish such forms as may be required for implementation of this Article."

(2) The words "with the approval of the Board" are hereby deleted from line 4 of the third paragraph of G.S. 110-91(9).

(3) The words "and to submit written reports on such visits and inspections to the Director on forms approved and provided by the Board." are hereby deleted and the words "and to submit written reports on such visits or inspections to the Department on forms approved by the Commission and provided by the Department." are hereby inserted on lines 6 and 7 of the second paragraph of G.S. 110-92.

(4) The words "or his staff" are hereby deleted from the fifth line of G.S. 110-93(b).

(c) The following sections of the General Statutes of North Carolina are hereby repealed: G.S. 110-86(5); G.S. 110-87; G.S. 110-88(4); G.S. 110-88(10); and G.S. 110-89.

Sec. 16. North Carolina Drug Commission; creation, powers, and duties. There is hereby created the North Carolina Drug Commission of the Department of Administration which is hereby designated as the single State agency to coordinate all State efforts relating to drug abuse prevention, education, control, treatment, and rehabilitation. (a) The North Carolina Drug Commission shall have the following functions and duties:

(1) to advise in the coordination of all State efforts related to drug abuse prevention, education, control, treatment, and rehabilitation to the end that the effort to control drug abuse shall be efficiently and effectively administered and duplicating and overlapping efforts eliminated;

(2) to review all requests by non-State agencies to federal agencies for funds to finance drug abuse prevention, education, control, treatment, or rehabilitation programs, with the requirement that such federal funds may be spent within the State of North Carolina only when approved by the North Carolina Drug Commission except in those instances in which requirements for approval by the Drug Commission violates federal law or regulation;

(3) to advise in the coordination of the State's efforts with the efforts of local and municipal governments within the State and with the efforts of other states and the federal government;

(4) to assist private agencies and community organizations by providing needed coordination and information;

(5) to assist in the planning and supervision of public informational programs related to drug abuse;

(6) to assist with the formulation and coordination of programs relating to the early diagnosis, treatment, and rehabilitation of drug abusers;

(7) to assist with the formulation and coordination of training and informational programs for State employees and others;

(8) to advise in the coordination of the State's efforts to obtain federal funds available for drug abuse programs; and

(9) to advise the Secretary of Administration upon any matter the Secretary may refer to it.

(b) To establish standards and adopt rules and regulations:

(1) for the licensing of nonprofessional drug treatment facilities as provided by G.S. 90-109,

(2) relating to the registration and control of the manufacture, distribution, and dispensing of controlled substances as provided by G.S. 90-100.

(c) The Commission is authorized and empowered to adopt such rules and regulations, not inconsistent with the laws of this State, as may be required by the federal government for grants-in-aid for drug abuse prevention, education, control, treatment and rehabilitation purposes which may be made available to the State by the federal government. This section is to be liberally construed in order that the State and its citizens may benefit from such grants-in-aid.

Sec. 17. North Carolina Drug Commission; members, selection, quorum, compensation. The North Carolina Drug Commission of the Department of Administration shall consist of the following 13 members: the Attorney General or his designee, the Executive Officer of the State Board of Pharmacy, four persons appointed by the Secretary of Human Resources including representatives of youth development, mental health, health, and vocational rehabilitation, one person appointed by the Secretary of Correction who shall be a representative of adult correction, the Superintendent of Public Instruction or his designee, the Chairman of the Board of Governors of the North Carolina University System or his designee, a member of the Board of Medical Examiners of the State of North Carolina appointed by the Board of Medical Examiners for a term of two years commencing July 1 of each odd-numbered year, a member of the North Carolina House of Representatives appointed by the Speaker of the House of Representatives for a term of two years commencing July 1 of each odd-numbered year, a member of the North Carolina Senate appointed by the President Pro Tempore of the Senate for a term of two years commencing July 1 of each odd-numbered year, and a youth member appointed by the Governor for a term of two years commencing July 1 of each odd-numbered year. The initial appointed members of the Commission shall be the appointed members of the North Carolina Drug Authority who shall serve for a period equal to the remainder of their current terms on the North Carolina Drug Authority. At the end of the respective terms of office of the initial members of the Commission, the appointment of their successors, with the exception of those from State agencies, shall be for terms of two years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Commission from office in accordance with the provisions of Section 13 of the

Executive Organization Act of 1973 with the exception that the provision of G.S. 143B-13(c) shall only apply to State employees and shall not apply to other members of the Commission.

The Governor shall designate a member of the Commission to serve as chairman at the pleasure of the Governor.

Members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Commission shall constitute a quorum for the transaction of business.

All clerical and other services required by the Commission shall be supplied by the Secretary of Administration.

Sec. 18. North Carolina Drug Commission; conforming changes. (1) Article 53 of Chapter 143 of the General Statutes of North Carolina being Sections 143-471 through 143-475 is hereby repealed.

Sec. 19. North Carolina Council on Interstate Cooperation; creation, powers, and duties. There is hereby created the North Carolina Council on Interstate Cooperation of the Department of Administration.

(a) The North Carolina Council on Interstate Cooperation shall have the following functions and duties:

(1) to carry forward the participation of this State as a member of the Council of State Governments;

(2) to encourage and assist the legislative, executive, administrative, and judicial officials and employees of this State to develop and maintain friendly contact by correspondence, by conference and otherwise, with officials and employees of the other states, of the federal government, and of local units of government;

(3) to endeavor to advance cooperation between this State and other units of government whenever it seems advisable to do so by formulating proposals for, and by facilitating:

a. the ad ption of compacts;

b. the enactment of uniform or reciprocal statutes;

c. the adoption of uniform or reciprocal administrative rules and regulations;

d. the informal cooperation of governmental offices with one another;

e. the personal cooperation of governmental officials and employees with one another, individually;

f. the interchange and clearance of research and information; and

g. any other suitable process.

(4) to study, analyze, and report to the Secretary of Administration its recommendations concerning interstate compacts affecting the interest of North Carolina and studies and reports prepared by the Council of State Governments and similar agencies; regularly to inform the members of the General Assembly and other State officials of the publications and services which the Council of State Governments makes available to them; and to attend appropriate national and regional conferences of State officials considering interstate problems of concern to North Carolina and report thereon to the Secretary;

(5) in short, to do all such acts as will, in the opinion of this Council enable this State to do its part, or more than its part, in forming a more perfect union among the various governments in the United States and in developing the Council of State Governments for that purpose;

(6) to advise the Secretary of Administration upon any matter the Secretary may refer to it; and

(7) the Council shall report to the Governor and to the Legislature within 15 days after the convening of each regular legislative session.

Sec. 20. North Carolina Council on Interstate Cooperation; members, selection, quorum, compensation. The North Carolina Council on Interstate Cooperation of the Department of Administration shall consist of 11 members. The composition of the Council shall be as follows:

(1) President of the Senate; (2) Speaker of the House of Representatives; (3) Three Senators designated by the President of the Senate; (4) Three Representatives designated by the Speaker of the House; and (5) Three administrative officials designated by the Governor.

The initial members of the Council shall be the appointed members of the North Carolina Commission on Interstate Cooperation who shall serve for a period equal to the remainder of the current terms on the North Carolina Commission on Interstate Cooperation, all of whose terms expire June 30, 1977.

Sec. 21. Officers of the Council. The Governor shall biennially designate the chairman of the Council from among the legislative members of the Council.

Sec. 22. Senate members on Interstate Cooperation. The President of the Senate shall, on or before July 1 of the year in which each regular session of the General Assembly is held, designate three members of the Senate as members of the Council on Interstate Cooperation.

Sec. 23. House members on Interstate Cooperation. The Speaker of the House of Representatives shall, on or before July 1 of the year in which each regular session of the General Assembly is held, designate three members of the House as members of the Council on Interstate Cooperation.

Sec. 24. Terms of office of members. Each of the Senate and House members of the Council shall serve until his successor as a member of the Council is designated. Each administrative member of the Council shall serve for a term of two years and until his successor is designated.

The Governor shall have the power to remove any of his appointees to the Council from office in accordance with the provisions of Section 16 of the Executive Organization Act of 1973.

Members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Council shall constitute a quorum for the transaction of business.

All clerical and other services required by the Council shall be supplied by the Secretary of Administration.

Sec. 25. North Carolina Council on Interstate Cooperation; conforming changes. The following sections of the General Statutes of North Carolina are hereby repealed: G.S. 143-178, G.S. 143-179, G.S. 143-180, G.S. 143-181, G.S. 143-182, G.S. 143-183, G.S. 143-184, and G.S. 143-185.

Sec. 26. State Youth Advisory Council; creation, powers, and duties. There is hereby created the State Youth Advisory Council of the Department of Administration. The State Youth Advisory Council shall have the following functions and duties:

(1) to advise the youth councils of North Carolina;

(2) to encourage State and local councils to take active part in governmental and civic affairs, promote and participate in leadership and citizenship programs, and cooperate with other youth-oriented groups;

(3) to receive on behalf of the Department of Administration and to recommend expenditure of gifts and grants from public and private donors;

(4) to establish procedures for the election of its youth representatives by the State Youth Council; and

(5) to advise the Secretary of Administration upon any matter the Secretary may refer to it.

Sec. 27. State Youth Advisory Council; members, selection, quorum, compensation. The State Youth Advisory Council of the Department of Administration shall consist of 16 members. The composition and appointment of the Council shall be as follows:

Eight youths to be elected by the procedure adopted by the Youth Advisory Council; and eight adults to be appointed by the Governor.

The initial members of the Council shall be the appointed members of the Youth Advisory Board who shall serve for a period equal to the remainder of their current terms on the Youth Advisory Board. The current terms of the youth members expire July 1, 1976, the current terms of four of the adult members expire April 7, 1976, and the remaining four adult members' terms expire May 1, 1978. At the end of the respective terms of office of the initial members of the Council, the appointment of their successors shall be as follows:

(1) eight youth members to serve for terms beginning on July 1, 1976, and expiring on June 30, 1977. At the end of the terms of office of these youth members of the Council, the appointment of their successors shall be for terms of one year and until their successors are appointed and qualify.

(2) four adult members to serve for terms beginning on April 8, 1976, and expiring on July 1, 1980; and four adult members to serve for terms beginning on May 1, 1978, and expiring on July 1, 1982. At the end of the respective terms of office of these adult members of the Council, the appointment of their successors shall be for terms of four years and until their successors are appointed and qualify.

Any appointment to fill a vacancy on the Council created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Council from office in accordance with the provisions of Section 16 of the Executive Organization Act of 1973.

The Governor shall designate an adult member of the Council to serve as chairman at the pleasure of the Governor. The Council shall elect a youth member to serve as vice-chairman for a one-year term.

A majority of the Council shall constitute a quorum for the transaction of business.

Members of the Council who are not officers or employees of the State shall receive per diem and necessary travel and subsistence expenses in accordance with provisions of G.S. 138-5.

All clerical and other services required by the Council shall be supplied by the Secretary of Administration.

Sec. 28. The State Youth Council. There shall be a State Youth Council. It shall be established within one year of July 1, 1975, in accordance with the

methods and procedures established by the Youth Advisory Council. The State Youth Council is authorized and empowered to do the following:

(1) to consider problems affecting youth and recommend solutions or approaches to these problems to State and local governments and their officials;

(2) to promote statewide activities for the benefit of youth; and,

(3) to elect the youth representatives to the Youth Advisory Council.

Sec. 29. Local Youth Councils. The primary purpose of local youth councils is to promote participation by youth in programs affecting civic and governmental affairs.

Sec. 30. State Youth Advisory Council; conforming changes. Article 29C of Chapter 143 of the General Statutes of North Carolina, being sections G.S. 143-283.24 through G.S. 143-283.32, is hereby repealed.

Sec. 31. North Carolina Marine Science Council; creation, powers, and duties. There is hereby created the North Carolina Marine Science Council of the Department of Administration. The North Carolina Marine Science Council shall have the following functions and duties:

(1) to encourage the use and study of the ocean, estuarine, and coastal waters of the State of North Carolina by citizens and industries of the State;

(2) to foster education and training in ocean science technology in the State of North Carolina, including extension and continuing education;

(3) to assist in maintaining liaison with the corresponding authorities of nearby coastal states;

(4) to advise in the development and maintenance of the continuing inventory of the ocean resources of the State of North Carolina and the industries and institutions that have significant competence in the science and industry of the oceans, including the personnel and facilities;

(5) to advise in the coordination of efforts toward full development of the State's marine resources with proper attention being given to the need for conservation;

(6) to coordinate plans for, and work with relevant governmental agencies in, the implementation of all federal, State, and local legislation relating to coastal and marine resources;

(7) to review all research, education, and management programs relating to coastal and marine resources and to recommend revision when appropriate; and

(8) to advise the Secretary of Administration upon any matter the Secretary may refer to it.

Sec. 32. North Carolina Marine Science Council; members, selection, quorum, compensation. The North Carolina Marine Science Council of the Department of Administration shall consist of twenty-five members appointed by the Governor. The composition of the Council shall be as follows: 21 members appointed by the Governor from the public and private academic and scientific institutions in the State and from the various industries and professions in the State concerned with the exploration and use of the sea; one member representing the Department of Transportation in the area of ports and waterways; two members representing the Department of Natural and Economic Resources in the area of coastal resources and environmental protection; and one member representing the Department of Human Resources in the area of health services. The initial members of the Council shall be the appointed members of the North Carolina Marine Science Council who shall serve for a period equal to the remainder of their current terms on the North

Carolina Marine Science Council, 12 of whose appointments expire June 17, 1977, five of whose appointments expire June 17, 1979, and four of whose appointments expire June 17, 1981. At the end of the respective terms of office of the initial members of the Council, the appointment of their successors, with the exception of those from State agencies, shall be for terms of six years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Council created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Council from office in accordance with the provisions of Section 16 of the Executive Organization Act of 1973.

The Governor shall designate a member of the Council to serve as chairman at the pleasure of the Governor.

Members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Council shall constitute a quorum for the transaction of business.

All clerical and other services required by the Council shall be supplied by the Secretary of Administration.

Sec. 33. North Carolina Marine Science Council; conforming changes. (1) Senate Joint Resolution 799, 1969 Session Laws, is hereby repealed.

(2) Article 37A of Chapter 143 of the General Statutes of North Carolina is hereby repealed.

Sec. 34. North Carolina Human Relations Council; creation, powers, and duties. There is hereby created the North Carolina Human Relations Council of the Department of Administration. The North Carolina Human Relations Council shall have the following functions and duties:

(1) to study problems concerning human relations;

(2) to promote equality of opportunity for all citizens;

(3) to promote understanding, respect, and goodwill among all citizens;

(4) to provide channels of communication among the races;

(5) to encourage the employment of qualified people without regard to race;

(6) to encourage youths to become better trained and qualified for employment;

(7) to receive on behalf of the Department of Administration and to recommend expenditure of gifts and grants from public and private donors;

(8) to enlist the cooperation and assistance of all State and local government officials in the attainment of the objectives of the Council;

(9) to assist local good neighborhood councils and bi-racial human relations committees in promoting activities related to the functions of the Council enumerated above; and

(10) to advise the Secretary of Administration upon any matter the Secretary may refer to it.

Sec. 35. North Carolina Human Relations Council; members, selection, quorum, compensation. The Human Relations Council of the Department of Administration shall consist of 20 members appointed by the Governor to serve at his pleasure.

The Governor shall designate a member of the Council to serve as chairman at the pleasure of the Governor.

Members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Council shall constitute a quorum for the transaction of business.

All clerical and other services required by the Council shall be supplied by the Secretary of the Department of Administration.

Sec. 36. North Carolina Human Relations Council; conforming changes. (1) Article 49 of Chapter 143 of the General Statutes of North Carolina is hereby repealed.

Sec. 37. Council on the Status of Women; creation, powers, and duties. There is hereby created the Council on the Status of Women of the Department of Administration. The Council on the Status of Women shall have the following functions and duties:

(1) to advise the Governor, the principal State departments, and the State legislature concerning the education and employment of women in the State of North Carolina; and

(2) to advise the Secretary of Administration upon any matter the Secretary may refer to it.

Sec. 38. Council on the Status of Women; members, selection, quorum, compensation. The Council on the Status of Women of the Department of Administration shall consist of seven members appointed by the Governor. The initial members of the Council shall be the appointed members of the Commission on the Education and Employment of Women who shall serve for a period equal to the remainder of their current terms on the Commission on Education and Employment of Women, four of whose appointments expire June 30, 1976, and three of whose appointments expire June 30, 1977. At the end of the respective terms of office of the initial members of the Council, the appointment of their successors shall be for terms of two years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Council created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Council from office in accordance with the provisions of Section 16 of the Executive Organization Act of 1973.

The Governor shall designate a member of the Council to serve as chairman at the pleasure of the Governor.

Members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Council shall constitute a quorum for the transaction of business.

All clerical and other services required by the Council shall be supplied by the Secretary of Administration.

Sec. 39. Council on the Status of Woman; conforming changes. (1) Article 50 of Chapter 143 of the General Statutes of North Carolina, being Sections 143-423 through 143-428, are hereby repealed.

Sec. 40. North Carolina Manpower Council; creation, powers, and duties. There is hereby created the North Carolina Manpower Council of the Department of Administration. The North Carolina Manpower Council shall have the following functions and duties:

(1) to plan and promote the development of comprehensive and coordinated State manpower plan, taking into account overall State planning and area planning;

(2) to advise in the coordination of State manpower and manpower-related programs so as to reduce duplication of programs and activities to provide for the efficient administration;

(3) to be the State sponsor of federal manpower programs in North Carolina;

(4) to advise the General Assembly, the Governor, the State agencies and institutions, the Congress, and the federal agencies with respect to the best means of meeting the manpower needs of North Carolina; and,

(5) to advise the Secretary of Administration upon any matter the Secretary may refer to it.

Sec. 41. North Carolina Manpower Council; members, selection, quorum, compensation. The North Carolina Manpower Council of the Department of Administration shall consist of 15 members appointed by the Governor for terms of four years. Terms of the initial members of the Council unless otherwise indicated shall expire on June 30, 1979. The Council shall be composed of the following members: one representative of the State community colleges nominated by the State Board of Education; one representative of the Employment Security Commission; one representative of the Department of Human Resources; one representative of the Department of Administration; at least two representatives of organized labor whose term shall expire on June 30, 1977; at least two representatives of business and industry whose term shall expire on June 30, 1977; representatives of community-based organizations and of the client community to be served under applicable federal legislation; representatives of the general public; and provided, further, that at least one-third of the membership of the council shall be representatives of the units or combinations of units of general local government which have federally approved comprehensive manpower plans.

The Governor, by executive order, shall promulgate criteria for determining the eligibility of persons under this Section and for this purpose, may promulgate the rules, regulations, or guidelines established by any federal agency interpreting and applying equivalent provisions of law. At the end of the respective terms of office of the initial members of the Council, the appointment of their successors shall be for terms of four years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Council created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Council from office in accordance with the provisions of Section 16 of the Executive Organization Act of 1973.

The Governor shall designate a member of the Council to serve as Chairman at the pleasure of the Governor.

Members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Council shall constitute a quorum for the transaction of business.

All clerical and other services required by the Council shall be supplied by the Secretary of Administration.

Sec. 42. North Carolina Manpower Council; conforming changes. Article 29D of Chapter 143 of the General Statutes of North Carolina. being G.S. 143-283.41 through G.S. 143-283.48, is hereby repealed.

Sec. 43. Standardization Committee; creation, powers, and duties. There is hereby created the Standardization Committee of the Department of Administration.

It shall be the duty of the Standardization Committee to recommend to the Secretary of Administration the establishment and modification of standard specifications wherever feasible applying to articles purchased or leased. In the generation of recommendations for any specifications the Standardization Committee shall seek the advice, assistance and cooperation of any State department, institution or agency to ascertain its precise requirements in any given commodity. Each specification recommended for any commodity shall insofar as practicable satisfy the requirements of the majority of the State departments, institutions or agencies which use the same in common. After its adoption, by the Secretary, each standard specification shall, until revised or rescinded, apply alike in terms and effect to every State purchase of commodity described in such specifications. In the preparation of specifications the Standardization Committee shall have the power to make use of any State laboratory with or without charge for tests in making determination of quality.

Sec. 44. Standardization Committee; members, selection, quorum. The Standardization Committee shall consist of seven members as follows: (1) The Secretary of Administration who shall be the chairman, (2) An engineer from the Department of Transportation to be appointed upon recommendation by the Secretary of Transportation, (3) A representative of State or local education agencies, (4) A representative of the State departments, (5) A representative of the State charitable and correctional institutions, and (6) Two members of the Advisory Budget Commission to be designated by the Governor.

Four members of said Committee shall constitute a quorum for the transaction of business, or the performance of any duties imposed upon the Committee by this Article. The Committee shall meet at such time, or times, as it shall by rule or regulation prescribe, but it may meet at other times at the call of the chairman.

The members of the Committee are appointed by the Governor to serve at the pleasure of the Governor.

All clerical and other services required by the Committee shall be supplied by the Secretary of Administration. Laboratory services will be provided by the head of the department in which the laboratory is located.

Sec. 45. Standardization Committee; conforming changes. G.S. 143-61 of the General Statutes of North Carolina is hereby repealed.

Sec. 46. Department of Administration; conforming changes. (a)

(1) Whenever the words "Director of Administration", "Director of the Department of Administration", "Director of the North Carolina Department of Administration", or "Director" when referring to the Director of Administration are used or appear in any statute or law of this State the same shall be deleted and the words "Secretary of Administration" or "Secretary", as appropriate, shall be inserted in lieu thereof.

(2) Whenever the words "Assistant Director of the Budget", "State Property Control and Construction Officer", or "State Budget Officer", or "Director of the Division of Purchase and Contract", or "Director of Purchase

and Contract" are used or appear in any statute or law of this State, the same shall be deleted and the words "Secretary of Administration" or "Secretary", as appropriate shall be inserted in lieu thereof.

(3) Whenever the words "Purchase and Contract Division", "Division of Purchase and Contract", "Budget Division", or "Division" when referring to either the Purchase and Contract or Budget Divisions are used or appear in any statute or law of this State, the same shall be deleted and the words "Department of Administration" or "Department", as appropriate shall be inserted in lieu thereof except in subsection 1 and 2 of G.S. 143-341.

(4) Whenever the words "Division of Property Control" or "Division" when referring to the Property Control Division are used or appear in any statute or law of this State the same shall be deleted and the words "Department of Administration" or "Department", as appropriate, shall be inserted in lieu thereof.

(5) Whenever the words "General Services Division" or "Division" when referring to the General Services Division are used or appear in any statute or law of the State the same shall be deleted and "Department of Administration" or "Department" as appropriate shall be inserted in lieu thereof.

(b) In addition to the foregoing, the following amendments to the General Statutes of North Carolina are hereby made:

(1) G.S. 143-336 is hereby amended by deleting the words "'Division' means a division of the Department of Administration, unless the context otherwise requires" from paragraph 4 of G.S. 143-336.

(2) The words "Designating personnel and" shall be deleted from line 1 of G.S. 143-53(1).

(3) The word "Bureau" shall be deleted and the word "Division" shall be inserted in lieu thereof on line 3 of G.S. 143-341(1)b.

(4) G.S. 143-341(8)i.2 shall be rewritten to read as follows: "To acquire passenger motor vehicles by transfer from other State agencies and by purchase. All motor vehicles transferred to or purchased by the Department shall become part of a central motor pool."

(5) G.S. 143B-2 is hereby amended by adding the following subsection: "7. Department of Administration."

(6) G.S. 143B-6 is hereby amended by adding the following subsection: "7. Department of Administration."

(c) The following sections of the General Statutes of North Carolina are hereby repealed: Article 10 of Chapter 143A of the General Statutes, being Sections 143A-80 through 143A-96; Article 8 of Chapter 129 of the General Statutes; G.S. 143-337; G.S. 143-338; G.S. 143-339; G.S. 143-340(1); G.S. 143-340(2); G.S. 143-340(3); G.S. 143-340(4); G.S. 143-340(5); G.S. 143-340(6); G.S. 143-340(7); G.S. 143-340(8); G.S. 143-340(9); G.S. 143-340(11); G.S. 143-340(13); G.S. 143-340(15); G.S. 143-340(16); and G.S. 143-340(23).

Sec. 47. The provisions of G.S. 143B-13(c) shall not apply to ex officio members of a Commission whose membership on a Commission is the result of being a member of the Council of State, the General Assembly or other elected office.

Sec. 48. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 1284 **CHAPTER 880**

AN ACT TO AMEND CHAPTER 175 OF THE 1975 SESSION LAWS, REQUIRING THE PAYMENT OF DELINQUENT TAXES IN WATAUGA AND STOKES COUNTIES BEFORE RECORDING DEEDS CONVEYING PROPERTY SUBJECT TO DELINQUENT TAXES, TO DELETE STOKES COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 175 of the 1975 Session Laws is hereby amended by deleting the words "and Stokes" which appear between the word "Watauga" and the word "County".

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 254 **CHAPTER 881**

AN ACT TO REWRITE PORTIONS OF THE MACHINERY ACT TO PROVIDE A MORE EQUITABLE, FAIR, AND EFFICIENT SYSTEM OF TAXATION ON REAL AND PERSONAL PROPERTY.

Whereas, the General Assembly of North Carolina has consistently sought to improve the taxation laws of this State to produce a fair, equitable, and efficient system of taxation; and

Whereas, the Joint Legislative Committee on the Tax Structure of the Local Units of Government made its report to the General Assembly on January 9, 1975, and recommended several changes in the Machinery Act; and

Whereas, in times of economic hardship it is especially important to protect the tax revenues of the local units of government, while continuing to improve the system of taxation; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Article 18 of Chapter 105 of the General Statutes of North Carolina is hereby amended by adding the following sections thereto to be numbered and to read as follows:

"§ 105-316.1. *Moving permit required to move mobile home.*—(a) In order to protect the local taxing units of this State against the nonpayment of ad valorem taxes on mobile homes, it is hereby declared to be unlawful for any person other than a mobile home manufacturer or retailer to remove or cause to be removed any mobile home situated at a premises in this State without first obtaining a moving permit from the tax collector of the county in which the mobile home is situated. The moving permit shall be conspicuously displayed near the license tag on the rear of the mobile home at all times during its transportation. Permits required by this act may be obtained at the office of the county tax collector during normal business hours.

(b) Manufacturers, retailers and licensed carriers of mobile homes shall not be required to obtain the moving permits herein provided. Such firms shall, however, be responsible for seeing that a proper license tag is displayed on all mobile homes being transported by them or for them. Persons or firms which transport mobile homes for owners other than mobile home manufacturers and retailers shall also be responsible for seeing that the moving permit required by

this act is properly displayed on the mobile home at all times during its transportation.

"§ 105-316.2. *Requirements for obtaining permit.*—(a) In order to obtain the permits herein provided, persons other than manufacturers and retailers of mobile homes shall be required to (1) pay all taxes due to be paid by the owner to the county or to any other taxing unit therein; or (2) show proof to the tax collector that no taxes are due to be paid; or (3) demonstrate to the tax collector that the removal of the mobile home will not jeopardize the collection of any taxes due or to become due to the county or to any taxing unit therein.

(b) In addition to complying with the provisions of subdivision (a) above, owners of mobile homes required to obtain the permits herein provided shall also furnish the following information to the tax collector:

(1) The name and address of the owner,

(2) The address or location of the premises from which the mobile home is to be moved,

(3) The address or location of the place to which the mobile home is to be moved, and

(4) The name and address of the carrier who is to transport the mobile home.

"§ 105-316.3. *Issuance of permits.*—(a) Except as otherwise provided in G.S. 105-316.2 above, no permit required by this act shall be issued by the tax collector unless and until all taxes due to be paid by the owner to the county or to any other taxing unit therein, including any penalties or interest thereon, have been paid. Any taxes which have not yet been computed but which will become due during the current calendar year shall be determined as in the case of prepayments.

(b) Upon compliance with the provisions of this act, the tax collector shall issue, without charge, a permit authorizing the removal of the mobile home. He shall also maintain a record of all permits issued.

"§ 105-316.4. *Issuance of permits under repossession.*—Notwithstanding the provisions of G.S. 105-316.2(a) and G.S. 105-316.3(a), above, any person who intends to take possession of a mobile home, whether by judicial or nonjudicial authority, as a holder of a lien on said mobile home shall apply for and be issued the permit herein provided without paying all taxes due to be paid by the owner of the mobile home being repossessed, upon notifying the tax collector of the location to which the mobile home is being taken and stored and obtaining a statement from the tax collector of any personal property taxes owed on the mobile home only. Within seven days of the issuance of such a permit, the applicant shall pay to the tax collector the taxes due hereunder as set forth in the statement, including penalties and interest.

"§ 105-316.5. *Form of permit.*—The permit shall be in substantially the following form:

MOVING PERMIT

County of _____ Permit Number _____

State of North Carolina Date of Issuance _____

Permission is hereby granted to: _____

(Name & address of owner)

_____

(Name & address of carrier)

to remove the following described mobile home:

_____
(Make, model, size, serial number, etc.)
From: _____
(Address)
To: _____
(Address)
This permit is issued in accordance with the provisions of G.S. 105-316.1 through G.S. 105-316.8 of the General Statutes of North Carolina.
(Signed) _____
Tax Collector
(or Deputy Tax Collector)
County of _____

"§ 105-316.6. *Penalties for violations.*—(a) Any person required by this act to obtain a moving permit who fails to do so or who fails to properly display same shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine not to exceed fifty dollars ($50.00) or imprisonment not to exceed 30 days, or both, in the discretion of the court. This penalty shall be in addition to any penalties imposed for failure to list property for taxation and interest for failure to pay taxes provided by the general laws of this State.

(b) Any manufacturer or retailer of mobile homes who aids or abets any owner covered by this act to defeat in any manner the purpose of the act shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine not to exceed fifty dollars ($50.00) or imprisonment not to exceed 30 days, or both, in the discretion of the court.

(c) Any person who transports a mobile home from a location in this State for an owner other than a manufacturer or retailer of mobile homes without having properly displayed thereon the moving permit required by this act shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine not to exceed fifty dollars ($50.00) or imprisonment not to exceed 30 days, or both, in the discretion of the court.

(d) Any law enforcement officer of this State who apprehends any person violating the provisions of this act shall detain such person until satisfactory arrangements have been made to meet the requirements of this act.

"§ 105-316.7. *Mobile home defined.*—For the purpose of this act, 'mobile home' means a structure that (i) is designed, constructed, and intended for use as a dwelling house, office, place of business, or similar place of habitation and (ii) is capable of being transported from place to place on wheels attached to its frame. This definition does not include trailers and vehicles required to be registered annually pursuant to Part 3, Article 3 of Chapter 20 of the General Statutes.

"§ 105-316.8. *Taxable situs not presumed.*—Nothing in this act shall be interpreted so as to subject to taxation any mobile home which does not have a taxable situs within this State under the general rules of law appropriate to such a determination."

Sec. 2. G.S. 105-277.1 as the same appears in the 1973 Machinery Act of North Carolina is hereby rewritten to read as follows:

"§ 105-277.1. *Property classified for taxation at reduced valuation.*—(a) The following class of property is hereby designated a special class under authority of Article V, Section 2(2) of the North Carolina Constitution and shall not be assessed for taxation: The first five thousand dollars ($5,000) in assessed value

of property owned by a North Carolina resident and occupied by the owner as his or her permanent residence, provided that as of January 1 of the year for which the benefit of this classification is claimed, the following conditions are met:

(1) The owner is (a) 65 years of age or older or (b) totally and permanently disabled, and

(2) The owner's disposable income for the calendar year immediately preceding did not exceed seven thousand five hundred dollars ($7,500), and

(3) The owner makes timely application for the benefit of this classification in the manner and at the time hereinafter provided.

For married applicants residing with their spouses, the disposable income of both spouses must be included, whether or not the property is in both names.

(b) Definitions. When used in this section, the following definitions shall apply:

(1) An 'owner' of property means a person who holds legal or equitable title to the property, either individually or as a tenant by the entirety, a joint tenant, a tenant in common, a life estate or an estate for the life of another. Property owned and occupied by husband and wife as tenants by the entirety shall be entitled to the full benefit of this classification notwithstanding that only one of them meets the age or disability requirements herein provided. If the residence is a mobile home and is jointly owned by husband and wife, it shall be treated as property held by the entirety. When property is owned by two or more persons other than husband and wife and one or more of such owners qualifies for this classification, each qualifying owner shall be entitled to the full amount of the exclusion not to exceed his or her proportionate share of the valuation of the property. No part of an exclusion available to one co-owner may be claimed by any other co-owner and in no event shall the total exclusion allowed to a qualifying property exceed five thousand dollars ($5,000).

(2) 'Disposable income' means adjusted gross income as defined for North Carolina income tax purposes in G.S. 105-141.3 plus all other monies received from every source.

(3) 'Permanent residence' means legal residence. It includes the dwelling, the dwelling site, not to exceed one acre, and related improvements but does not include furniture or furnishings within the dwelling. The dwelling may be a single family residence, a unit in a multi-family residential complex or a mobile home. Notwithstanding the occupancy requirements of this classification, an otherwise qualified applicant shall not lose the benefit of the exclusion because of a temporary absence from his or her permanent residence for reasons of health, or because of an extended absence while confined to a rest home or nursing home, so long as the residence is unoccupied or occupied by the applicant's spouse or other dependent.

(4) A 'totally and permanently disabled person' means one who has a physical or mental impairment which substantially precludes him from obtaining gainful employment and such impairment appears reasonably certain to continue without substantial improvement throughout his lifetime.

(c) Application. To receive the benefit of this exclusion, an owner of qualifying property must make application therefor during the regular listing period each year on forms approved by the Department of Revenue. Such forms shall require the following information:

(1) The claimant's date of birth.

(2) For permanently disabled applicants, a certificate from a licensed medical doctor verifying that the claimant is totally and permanently disabled within the meaning of this section.

(3) The claimant's disposable income for the calendar year immediately preceding.

When property is owned by two or more persons other than husband and wife and one or more of them qualifies for this exclusion, each such owner shall file a separate application for his or her proportionate share of the exclusion. If an applicant is unable to supply information as to his disposable income during the regular listing period, he shall be permitted to furnish the information at any time prior to May 1.

Notwithstanding the above filing requirements, the board of commissioners may approve an otherwise proper application received at any time prior to November 1 provided the applicant can show proof that his failure to file a timely application was due to circumstances beyond his control."

Sec. 3. G.S. 105-309(f) is hereby rewritten to read as follows:

"(f) The following information shall appear on each abstract: 'PROPERTY TAX RELIEF FOR ELDERLY AND PERMANENTLY DISABLED PERSONS WITH LIMITED INCOME.

If you are 65 years of age or older or totally and permanently disabled and your disposable income for the preceding year did not exceed seven thousand five hundred dollars ($7,500), you are eligible for an exclusion of up to five thousand dollars ($5,000) in assessed valuation of the property you own and occupy as your principal residence. If you are qualified and wish to apply for this exclusion, place an "X" in the box at the right ☐ '."

Sec. 4. This act shall become effective January 1, 1976.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 240 CHAPTER 882

AN ACT TO AMEND G.S. 115A-5 RELATING TO THE WAIVER OF TUITION AND REGISTRATION FEES FOR TRAINING COURSES FOR FIRE DEPARTMENT PERSONNEL AND VOLUNTEER RESCUE AND LIFESAVING DEPARTMENT PERSONNEL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115A-5 as the same appears in the 1974 Cumulative Supplement to Volume 3A of the General Statutes is hereby amended by adding the words and punctuation "local fire department personnel and volunteer rescue and lifesaving department personnel," between the words and punctuation "firemen," and "local" on line 17.

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

S. B. 176

CHAPTER 883

AN ACT TO APPROPRIATE FUNDS FOR THE DUPLIN HISTORICAL SOCIETY.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund of the State of North Carolina to the Division of Archives and History, Department of Cultural Resources for the Duplin Historical Society the sum of thirty thousand dollars ($30,000) for fiscal year 1976-1977.

Sec. 2. Funds appropriated in this act shall be expended only in accordance with G.S. 121-11 and G.S. 143-31.2.

Sec. 3. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

S. B. 528

CHAPTER 884

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF ADMINISTRATION FOR RESEARCH AND DEVELOPMENT OF A LAND RECORDS INFORMATION SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated to the North Carolina Department of Administration, out of the General Fund of the State, in addition to all other appropriations, the sum of one hundred fifty thousand dollars ($150,000) for the fiscal year 1976-1977. Said sum is to be used, in addition to funds otherwise available, for the purpose of research and development of a modernized land records information system to replace and upgrade existing land records information systems in the State of North Carolina, including participation in the funding of a pilot county project for the development and implementation of a modernized land records information system.

Sec. 2. All laws and clauses of laws in conflict herewith are hereby repealed.

Sec. 3. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

S. B. 375

CHAPTER 885

AN ACT TO PROVIDE A MEANS TO CLEAN UP OIL DISCHARGES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-215.84 as the same appears in the 1974 Supplement to Volume 3C of the General Statutes, is hereby amended by adding new subsections to read as follows:

"(c) The Secretary of the Department of Transportation is authorized and empowered, after consultation with the Secretary of Natural and Economic Resources, to purchase and equip a sufficient number of trucks designed to carry out the provisions of subsection (b). These trucks shall be maintained by the

Department of Transportation and shall be strategically located at various locations throughout the State so as to furnish a ready response when word of an oil discharge has been received. The Secretary of the Department of Natural and Economic Resources or his designee will, after consultation, decide where the trucks are to be located.

(d) The Secretary of the Department of Transportation and the Secretary of the Department of Natural and Economic Resources or their designees shall prepare rules and regulations and develop procedures for the placement of these trucks and shall determine the manner and way in which they are to be used. The Secretary of the Department of Natural and Economic Resources shall reimburse the Department of Transportation for expenses incurred by the Department of Transportation during cleanups as provided in G.S. 143-215.88."

Sec. 2. The Department of Transportation is hereby authorized to utilize funds in that Department's "Equipment Fund" to purchase trucks and administer the placement of those trucks throughout the State pursuant to the provisions of this act. The Director of the Budget is hereby authorized to transfer funds from other highway fund sources to the "Equipment Fund" in sufficient amounts to meet the expenses incurred through this act in 1975-1977 biennium up to three hundred thousand dollars ($300,000).

Sec. 3. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

S. B. 258 CHAPTER 886

AN ACT TO APPROPRIATE FUNDS TO DEFRAY EXPENSES OF ADMINISTERING THE CAMPAIGN REPORTING ACT AND TO DEFRAY INCREASED RESPONSIBILITIES.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated out of the General Fund to the State Board of Elections in addition to all other appropriations, the sum of forty thousand dollars ($40,000) for fiscal year 1975-1976 and the sum of forty thousand dollars ($40,000) for fiscal year 1976-1977 for employing personnel, purchasing equipment, training county personnel and defraying all other expenses necessary for the administration of the Campaign Contributions and Spending Reporting Act.

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

S. B. 424 **CHAPTER 887**

AN ACT TO PROHIBIT EMPLOYMENT OF CONSULTANTS BY STATE AGENCIES WITHOUT APPROVAL OF THE GOVERNOR.

The General Assembly of North Carolina enacts:

Section 1. (a) For purposes of this act the term "agency" shall mean every State agency, institution, board, commission, bureau, department, division, council, member of the Council of State, or officer of the State government.

(b) No State agency shall contract to obtain services of a consultant or advisory nature unless the proposed contract has been justified to and approved in writing by the Governor of North Carolina. All written approvals shall be maintained on file as part of the agency's records for not less than five years.

Sec. 2. The Governor, before granting written approval of any such contract, must find: (1) That the contract is reasonably necessary to the proper function of such State agency; and (2) That such services or advice cannot be performed within the resources of such State agency; (3) That the estimated cost is reasonable as compared with the likely benefits or results; and (4) That the General Assembly has appropriated funds for such contract or that such funds are otherwise available; and (5) That all rules and regulations of the Division of Purchase and Contract have been or will be complied with.

Sec. 3. The rules and regulations of the Division of Purchase and Contract shall include provisions to assure that all consultant contracts let by State agencies shall be made with other agencies of the State of North Carolina, if such contract can reasonably be performed by them; or otherwise, that wherever practicable a sufficient number of sources for the performance of such contract are solicited for competitive proposals and that such proposals are properly evaluated for award to the State's best advantage.

Sec. 4. No disbursement of State funds shall be made and no such contract shall be binding until the provision of Sections 2 and 3 have been complied with. Any employee or official of the State of North Carolina who violates this Chapter shall be liable to repay any amount expended in violation of this act, plus court costs.

Sec. 5. This act shall not apply to the General Assembly, special study commissions, or the Institute of Government, nor shall it apply to attorneys employed by the North Carolina Department of Justice, or physicians or doctors performing contractural services for any State agency.

Sec. 6. There is hereby appropriated from the General Fund for the purposes of this act to the Division of Purchase and Contract of the Department of Administration the sum of fifty thousand dollars ($50,000) for fiscal year 1975-1976 and the sum of fifty thousand dollars ($50,000) for fiscal year 1976-1977.

Sec. 7. This act shall become effective 30 days after ratification, or on July 1, 1975, whichever date occurs earlier.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

S. B. 533

CHAPTER 888

AN ACT TO REQUIRE THE STATE BOARD OF EDUCATION TO REVISE AND RECODIFY CHAPTER 115 OF THE GENERAL STATUTES, ENTITLED "ELEMENTARY AND SECONDARY EDUCATION".

Whereas, Article IX, Section 5, of the State Constitution provides that the State Board of Education shall supervise and administer the free public school system; and

Whereas, the General Statutes relating to the public school laws of North Carolina are out of date and need revision; and

Whereas, the General Statutes relating to the public schools are being revised from time to time on a piecemeal basis without a thorough study being made of the entire public school laws to determine what effect such revisions may have on other sections of these laws; and

Whereas, the North Carolina General Assembly looks to the State Board of Education for revisions in the Statutes relating to the public school laws; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The North Carolina State Board of Education shall, upon ratification of this act, provide for a revision of the public school laws, Chapter 115 of the General Statutes, in a manner which will best serve the needs and interests of the public schools of this State.

Sec. 2. In order to accomplish the revision of the public school laws a special commission on revision and recodification comprised of 15 members shall be appointed. This commission shall consist of six members of the North Carolina General Assembly, three of whom shall be appointed by the Lieutenant Governor, and three of whom shall be appointed by the Speaker of the House of Representatives. Of the remaining nine members, five members shall be appointed by the North Carolina State Board of Education and four members shall be appointed by the Superintendent of Public Instruction. Included in the five members appointed by the North Carolina State Board of Education shall be one classroom teacher, one local superintendent of schools, one local school board member, one county commissioner and one member of the public-at-large. Included in the four members appointed by the Superintendent of Public Instruction shall be one school principal, one local school board member, one county commissioner, and one member of the public-at-large.

Sec. 3. The State Board of Education shall select from the membership of the commission one member who shall serve as the commission's chairman. The State Board of Education shall provide the required administrative and clerical assistance necessary to facilitate the operations of this commission and such other supportive services as may be required. There is hereby appropriated from the General Fund to the State Board of Education for fiscal year 1975-1976 the sum of twenty-five thousand dollars ($25,000) and for the fiscal year 1976-1977 the sum of twenty-five thousand dollars ($25,000) to meet the necessary expenses of the special commission.

Sec. 4. The special commission on revision and recodification shall complete its deliberations and present its recommendations to the North Carolina State Board of Education no later than the regularly scheduled meeting of the State Board of Education for December, 1976.

The State Board of Education shall prepare a revision of the public school laws and shall present the proposed revision to the North Carolina General Assembly no later than March 15, 1977.

Sec. 5. This act shall become effective upon ratification and, if it is deemed necessary by the chairman of the State Board of Education, a special session of the board shall be called in order to accomplish the purposes of this legislation.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

S. B. 631 **CHAPTER 889**

AN ACT TO APPROPRIATE FUNDS FOR THE PRESERVATION OF "RICHMOND HILL LAW SCHOOL" IN YADKIN COUNTY.

Whereas, Richmond Mumford Pearson was one of the great legal minds produced in North Carolina, serving on the bench longer than any other man in history to that time, including positions as Superior Court Judge from 1837 to 1848, Justice of the North Carolina Supreme Court from 1848 to 1858, and Chief Justice of that court from 1858 to 1878; and

Whereas, Judge Pearson established in 1847-48 a law school at his home above the Yadkin River, called "Richmond Hill"; and

Whereas, at "Richmond Hill" Justice Pearson conducted one of the best known private law schools ever established in the United States from 1848 to 1876, educating there three governors, six Supreme Court Justices, more than a dozen superior court judges, three Congressmen of the United States, one Confederate Congressman, numerous State legislators, and various ambassadors, cabinet officers, and other luminaries; and

Whereas, the building known as "Richmond Hill" has been placed in the charge of the historic Richmond Hill Law School Commission, which with forty-five thousand dollars ($45,000) of private, foundation, State, federal, and local funds, has stabilized the structure and forty thousand dollars ($40,000) is now being used to further restore and preserve the structure which played such an important role in North Carolina's history; and

Whereas, a Bureau of Outdoor Recreation grant of twenty-four thousand dollars ($24,000) has been used to develop the surrounding 24 acres as an historic nature park; and

Whereas, a pre-application has been submitted to the U. S. Department of Housing and Urban Development for a Discretionary Community Development grant to aid in the complete restoration of "Richmond Hill"; and

Whereas, there is an urgent need for additional funds to enable "Richmond Hill", including the outside "kitchen" and lawn, to be fully restored; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, for completing the restoration of Richmond Hill Law School in Yadkin County for the 1975-1976 fiscal year the sum of ten thousand dollars ($10,000), provided a like amount is raised by the Richmond Hill Law School Commission after July 1, 1975; and for the 1976-1977 fiscal year the sum of fifteen thousand dollars

($15,000), provided a like amount is raised by the Richmond Hill Law School Commission after July 1, 1976.

Sec. 2. Funds appropriated in this act shall be expended only in accordance with Section 143-31.2 of the Executive Budget Act.

Sec. 3. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

S. B. 810 CHAPTER 890

AN ACT TO APPROPRIATE GENERAL FUNDS TO THE DEPARTMENT OF HUMAN RESOURCES FOR PURPOSES OF PROVIDING SUPPORT TO YOUTH UNLIMITED, INC.

Whereas, Youth Unlimited, Inc., was chartered under the laws of North Carolina in 1968 as a private, non-profit corporation under the control of a local board; and

Whereas, the use of Model Cities funding resulted in the successful rehabilitation of 63 young people who were candidates for training schools; and

Whereas, the termination of Model Cities funding will result in the loss of this important community-based service without immediate State intervention; and

Whereas, community-based youth service programs are the State's most valuable asset in terms of diverting youthful offenders from training schools; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Department of Human Resources for a grant-in-aid to Youth Unlimited Inc., the sum of forty thousand dollars (40,000) for the 1975-1976 fiscal year for community-based youth service programs.

Sec. 2. Youth Unlimited, Inc., shall meet such licensure and regulatory standards as are considered appropriate by the department as a conditional provision for funding.

Sec. 3. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

S. B. 869 CHAPTER 891

AN ACT TO PROVIDE FUNDS FOR BURIAL OR TRANSPORTATION FOR BURIAL OF DECEASED MIGRANT AGRICULTURAL WORKERS UNDER THE SUPERVISION OF THE NORTH CAROLINA DEPARTMENT OF HUMAN RESOURCES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 90 of the General Statutes of North Carolina is hereby amended by adding a new Article 14B thereto to read as follows:

"ARTICLE 14B.

"Burial or Transportation for Burial of

Deceased Migrant Farm Workers.

"§ 90-216.6. *Burial or transportation for burial of deceased migrant farm workers.*—(a) Notwithstanding any other provisions of the law, any person having knowledge of the death of a migrant agricultural worker shall without delay report the fact of such death to the department of social services in the county in which the body is located together with any information he may possess respecting the deceased including his identity, place of employment, permanent residence, and the name, address and telephone number of any relative. The county department of social services shall within a reasonable time of receiving such report transmit to the Department of Human Resources notice of the death of the migrant agricultural worker and any information pertaining thereto. The Department of Human Resources shall, upon notification of the death of a migrant agricultural worker, make every reasonable effort to inform the nearest relative of said death.

(b) In the event that the identity of the deceased migrant agricultural worker cannot be determined within a reasonable period of time, or in the event that the body of the deceased migrant agricultural worker is unclaimed seven days after death, or in the event that the estate or the relatives are unable to provide for the burial of said migrant agricultural worker, the Department of Human Resources is authorized, empowered, and directed to allocate a sum of not more than four hundred dollars ($400.00) for the burial of said worker.

Such funds for the burial of a deceased migrant agricultural worker shall be transmitted to the director of the department of social services in the county in which the body is located whose responsibility it shall be to provide for a suitable burial of said worker not to exceed four hundred dollars ($400.00) in expense.

(c) In the event that the estate or the relatives of a deceased migrant agricultural worker are able to provide for the burial of the migrant agricultural worker but are unable to effect the transportation of the body of the deceased to his legal residence or the legal residence of the relatives, the Department of Human Resources is authorized, empowered, and directed to allocate a sum of not more than two hundred dollars ($200.00) to defray said transportation expenses.

Payments made from the funds appropriated under this subsection shall be made in accordance with rules and regulations promulgated by the Department of Human Resources.

For purposes of this Article, a migrant agricultural worker is any worker who moves in response to the demand for seasonal agricultural labor."

Sec. 2. There is hereby appropriated from the General Fund to the Department of Human Resources the sum of one thousand five hundred dollars ($1,500) for fiscal year 1975-1976 and the sum of one thousand five hundred dollars ($1,500) for fiscal year 1976-1977 for the purpose of defraying costs incurred under Section 1 of this act.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

S. B. 898 **CHAPTER 892**

AN ACT TO AMEND G.S. 138-6(a)(3) WHICH PROVIDES SUBSISTENCE AND TRAVEL ALLOWANCE FOR STATE EMPLOYEES AND OFFICERS AND TO APPROPRIATE THE NECESSARY FUNDS THEREFOR.

The General Assembly of North Carolina enacts:

Section 1. G.S. 138-6(a)(3) is hereby amended to read as follows:

"(3) For subsistence, the actual amount expended for a room, meals and reasonable gratuities not to exceed twenty-three dollars ($23.00) per day when traveling in State or a total of thirty-five dollars ($35.00) per day when traveling out of State."

Sec. 2. The heads of departments shall administer the provisions of Section 1. above in a manner to assure that these provisions are funded from within existing authorized budgets.

Sec. 3. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

S. B. 915 **CHAPTER 893**

AN ACT TO APPROPRIATE GENERAL FUNDS TO THE NORTH CAROLINA PROFESSIONAL LIABILITY INSURANCE STUDY COMMISSION AND TO FUND SPECIAL STUDIES THROUGH THE LEGISLATIVE SERVICES COMMISSION.

Whereas, House Bill 567 establishes a commission to study professional liability insurance in North Carolina; and

Whereas, without positive legislative action in this important area there is a probability that essential medical services would be seriously curtailed if the availability of professional liability insurance is reduced or terminated; and

Whereas, there is a need for the commission to employ professional and clerical staff with competence in the field of professional liability insurance; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund of the State to the North Carolina Professional Liability Insurance Study Commission the sum of twelve thousand five hundred dollars ($12,500) for fiscal year 1975-1976 and the sum of twelve thousand five hundred dollars ($12,500) for fiscal year 1976-1977 for purposes of employing professional and clerical staff in support of the commission, and to defray all other related travel and subsistence expenses of the commission and its staff.

Sec. 2. The sum of twenty-five thousand dollars ($25,000) is appropriated to the Legislative Services Commission to be used, on the express approval of the commission, to pay the expenses of study commissions or study efforts authorized by the 1975 General Assembly but for which no specific funding was authorized. The funds appropriated by this section may be expended in the 1975-1976 fiscal year, and any amount remaining may be expended during the 1976-1977 fiscal year.

Sec. 3. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 401 CHAPTER 894

AN ACT TO AMEND THE EFFECTIVE DATE OF CHAPTER 1418 OF THE SESSION LAWS OF 1973 RELATING TO THE FINANCING OF PUBLIC ASSISTANCE.

The General Assembly of North Carolina enacts:

Section 1. Section 6 of Chapter 1418 of the Session Laws of 1973 is hereby amended to read as follows:

"Sec. 6. This act shall become effective on July 1, 1974, and shall remain effective through June 30, 1977."

Sec. 2. It is the intent of this act to continue in effect until June 30, 1977, the amendments to Chapter 108 of the General Statutes relating to the financing of public assistance as contained in Chapter 1418 of the Session Laws of 1973.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 648 CHAPTER 895

AN ACT TO BE KNOWN AS THE UNIFORM BOILER AND PRESSURE VESSEL ACT OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. This act shall be known as the Uniform Boiler and Pressure Vessel Act of North Carolina.

Sec. 2. Definitions. (a) The term "board" shall mean the North Carolina Board of Boiler and Pressure Vessel Rules; (b) the term "commissioner" shall mean the North Carolina Commissioner of Labor; (c) the term "director" shall mean the individual appointed by the commissioner to hold the office of Director of the Boiler and Pressure Vessel Division within the Department of Labor; (d) the term "inspectors commission" shall mean a written authorization by the commissioner for a person, who has met the qualifications set out in this act, to conduct inspections of boilers and pressure vessels; (e) the term "inspection certificate" shall mean certification by the director that a boiler or pressure vessel is in compliance with the rules and regulations adopted under this act; (f) the term "boiler" shall mean a closed vessel in which water is heated, steam is generated, steam is superheated, or any combination thereof, under pressure or vacuum for use externally to itself by the direct application of heat from the combustion of fuels, or from electricity or nuclear energy. This term "boiler" shall also include fired units for heating or vaporizing liquids other than water where these units are separate from processing systems and are complete within themselves; (g) the term "pressure vessel" shall mean a vessel in which the pressure is obtained from an indirect source or by the application of heat from an indirect source or a direct source, other than those included within the term "boiler".

Sec. 3. Coverage and exemptions. (a) This act shall apply to all boilers and pressure vessels constructed, used, or designed for operation in this State

including all new and existing installations which are operated in connection with business buildings, institutional buildings, industrial buildings, assembly buildings, educational buildings, public residential buildings, recreation buildings, and other public buildings. This act shall also apply to boilers and hot water supply tanks, and heaters located in hotels, motels, tourist courts, camps, cottages, resort lodges, and similar places whenever the owner or operator advertises in any manner for transit patronage, or solicits such business for temporary abode by transit patrons.

(b) This act shall not apply to:

(1) Boilers and pressure vessels owned and/or operated by the federal government;

(2) Pressure vessels used for transportation or storage of compressed gases when constructed in compliance with the specifications of the U. S. Department of Transportation and when charged with gas marked, maintained, and periodically requalified for use, as required by appropriate regulations of the U. S. Department of Transportation;

(3) To portable boilers and pressure vessels used for agricultural purposes only or for pumping or drilling in an open field for water, gas or coal, gold, talc or other minerals and metals;

(4) Boilers and pressure vessels which are located in private residences or in apartment houses of less than six families;

(5) Pressure vessels used for transportation or storage of liquefied petroleum gas;

(6) Air tanks located on vehicles licensed under the rules and regulations of other state authorities operating under rules and regulations substantially similar to those of this State and used for carrying passengers or freight within interstate commerce;

(7) Air tanks installed on right-of-way of railroads and used directly in the operation of trains;

(8) Pressure vessels that do not exceed 5 cubic feet in volume and 250 PSIG pressure; or 1 1/2 cubic feet in volume and 600 PSIG pressure; or an inside diameter of 6 inches with no limitations on pressure;

(9) Pressure vessels operating at a working pressure not exceeding 15 PSIG;

(10) Pressure vessels with a nominal water capacity of 120 gallons or less and containing water under pressure at ambient temperature, including those containing air, the compression of which serves as a cushion;

(11) Boilers and pressure vessels on railroad steam locomotives that are subject to federal safety regulations.

(c) The construction requirements established by the Department of Labor shall not apply to hot water supply boilers which are directly fired with oil, gas or electricity, or hot water supply tanks heated by steam or any other indirect means, which do not exceed any of the following limitations:

(1) Heat input of 200,000 BTU HR;

(2) Water temperature of 200 degrees F;

(3) Nominal water capacity of 120 gallons; provided that they are equipped with ASME Code and National Board certified safety relief valves and shall continue to be subject to field inspection.

Sec. 4. Commissioner of Labor; powers and duties. The Commissioner of Labor is hereby charged, directed, and empowered: (a) to adopt, modify or revoke rules and regulations governing the construction, operation and use of

boilers and pressure vessels; (b) to supervise the office of the Director of Boiler and Pressure Vessel Division; (c) to enforce rules and regulations adopted under authority of this act; (d) to inspect boilers and pressure vessels covered under this act; (e) to issue inspection certificates to those boilers and pressure vessels found in compliance with this act; (f) to enjoin violations of this act in the civil and criminal courts of this State; (g) to keep adequate records of the type, dimensions, age, conditions, pressure allowed upon, location and date of the last inspection of all boilers and pressure vessels to which this act applies; (h) to require such periodic reports from inspectors, owners, and operators of boilers and pressure vessels as he deems appropriate in carrying out the purposes of this act; (i) to have free access, without notice, to any location in this State, during reasonable hours, where a boiler or pressure vessel is being built, installed, or operated for the purpose of ascertaining whether such boiler or pressure vessel is built, installed or operated in accordance with the provisions of this act; (j) to investigate serious accidents involving boilers and pressure vessels to determine the causes of such accident(s), and he shall have full subpoena powers in conducting said investigation; (k) to establish reasonable fees for the inspection and issuance of inspection certificates for boilers and pressure vessels; (l) to establish reasonable fees for the examination and certification of inspectors; (m) to appoint qualified individuals to the Board of Boiler and Pressure Vessel Rules.

Sec. 5. Office of director of boilers and pressure vessels division; creation, powers and duties. There is hereby created the office of Director of the Boiler and Pressure Vessel Division within the North Carolina Department of Labor. The person holding this office shall assist the commissioner in carrying out the provisions of this act in accordance with the provisions of Chapter 126 of the General Statutes. The director is charged with the responsiblity for the administration of this act on a day to day basis.

The director shall be primarily responsible for the inspection of boilers and pressure vessels subject to this act and for the issuance of inspection certificates for those boilers and pressure vessels found suitable. He shall also be responsible for the collection of fees for the inspection of boilers and pressure vessels and transmitting the same to the State Treasurer, where they shall be held in a special account to cover the operating expenses associated with the direct field inspections of this act. All administrative functions pursuant to this act shall be paid out of the State general fund.

Sec. 6. Board of boiler and pressure vessels rules; creation, appointment, terms, compensation and duties. (a) There is hereby created the North Carolina Board of Boiler and Pressure Vessels Rules consisting of seven members appointed by the commissioner, of which two shall be appointed for a term of one year, two for a term of two years, one for a term of three years, one for a term of four years, and one for a term of five years. At the expiration of their respective terms of office, their successors shall be appointed for terms of five years each. Of these seven appointed members, one shall be a representative of the owners and users of steam boilers within this State, one a representative of boiler manufacturers or boiler makers who has had not less than five years practical experience as a boiler maker within this State, one shall be a representative of the owners or users of pressure vessels within the State, one shall be a representative of the pressure vessel manufacturers within the State, one a representative of a boiler inspection and insurance company authorized to

insure boilers and pressure vessels within the State, one a representative of the operating steam engineers in this State, and one a contractor holding a Group 1 North Carolina heating license.

(b) The board shall meet at least twice annually and shall be responsible for:

(1) Studying and proposing rules and regulations, for adoption, modification or revocation by the commissioner, governing the construction, installation, inspection, repair, alteration, use and operation of boilers and pressure vessels in this State. The rules and regulations so formulated shall conform as nearly as possible to the boiler code of the American Society of Mechanical Engineers and amendments and interpretations thereto made and approved by the council of the society.

(2) Devise and administer examinations to applicants seeking a certificate of competency as inspectors of boilers and pressure vessels in this State.

(3) Issue, suspend, or revoke inspectors commission to inspectors of boilers and pressure vessels within this State.

(c) The members of the board shall serve without salary but shall be paid a subsistence and travel allowance as established by the Advisory Budget Commission in accordance with Chapter 138 of the General Statutes.

Sec. 7. Rules and regulations governing the construction, operation and use of boilers and pressure vessels. The commissioner, after consultation with the board, may adopt, modify or revoke such rules and regulations governing the construction, installation, repair, alteration, inspection, use and operation of boilers and pressure vessels as he deems appropriate to insure the safe operation and avoidance of injury to person or property from boilers and pressure vessels.

The procedure for the adoption, modification or revocation of such rules and regulations shall be the same as that contained within the Administrative Procedure Act of North Carolina as the same appears in Chapter 150A of the General Statutes.

Sec. 8. Inspectors; classifications, qualifications, examinations, certificates of competency, inspectors commission. (a) There shall be three types of inspectors authorized to conduct inspections and report their findings to the director under this act:

(1) Boiler and pressure vessel inspector. Shall be a qualified individual appointed by the commissioner, to assist in conducting inspections under this act and report on the suitability of boilers and pressure vessels so inspected;

(2) Special inspector. Shall be a qualified individual regularly employed by an insurance company authorized to insure in this State against injury to person and/or property from explosions and accidents involving boilers and pressure vessels;

(3) Owner-user inspectors. Shall be a qualified individual employed on a full-time basis by a company operating boilers or pressure vessels for its own use and not for resale, and maintains an established inspection program for periodic inspection of boilers and pressure vessels owned or used by that company and where such inspection program is under the supervision of one or more engineers having qualifications satisfactory to the commissioner.

(b) Inspectors commission. Any company authorized to insure in this State against loss to person or property as a result of an explosion or accident involving boilers and pressure vessels or operating boilers and/or pressure vessels for its own use and not for resale, may apply for the issuance of an inspectors

commission for an individual within its employ who has a certificate of competency.

A commission authorizes an inspector to make inspections on boilers and pressure vessels and report on the suitability of said boilers and pressure vessels to the director. Those inspectors holding commissions as special inspectors shall be limited to making inspections on boilers and pressure vessels insured by their employer. Owner-user inspectors shall be limited to conducting inspections on boilers and pressure vessels operated by their respective employers.

(c) Qualifications for certificates of competency. To be entitled to a certificate of competency, as one of the above type inspectors, an individual must:

(1) Have passed an examination provided and administered by the board, or

(2) Have passed an examination and been certified in a state having rules and regulations substantially similar to those effective within North Carolina; or

(3) Hold a certificate of competency of the National Board of Boiler and Pressure Vessel Inspectors; and

(4) Continue in the employ of the company requesting the certificate of competency from the board.

Sec. 9. Inspections; type, frequency, report, certificates, fees. (a) All boilers and pressure vessels subject to the provisions of this act shall be inspected by an authorized inspector, as set out in section 8 above, at such intervals and by such methods as the commissioner may from time to time prescribe by regulation. In determining the frequency with which various categories of boiler and pressure vessels shall be inspected, the commissioner shall give due consideration the hazard involved and need for protection of the public. Methods of inspection must provide an adequate procedure to insure the safety of individuals likely to be injured by an explosion or accident involving a boiler or pressure vessel.

(b) Upon completion of an inspection the authorized inspector shall file a report on the suitability of the boiler or pressure vessel inspected with the director. The inspector shall attach the fee paid for the inspection to his report.

(c) Upon receipt of the inspector's report and fee, the director shall determine whether or not a boiler or pressure vessel is in compliance with the rules and regulations adopted under this act. If the director determines it is in compliance he shall issue an inspection certificate authorizing use of the boiler or pressure vessel. When the director determines a boiler or pressure vessel is not in compliance, he shall so notify the owner or user within 10 working days. No boiler or pressure vessel may be operated without an inspection certificate, except pressure vessels being operated under owner-user provision where administrative procedures of equal safety and competency have been approved by the board and commissioner. No more than 60 days grace period may be granted beyond the certificate expiration date. An individual whose boiler or pressure vessel is found in noncompliance may appeal that determination to the commissioner within 30 days after notification of the decision is received.

Sec. 10. Review of administrative decision. (a) Final decisions of the board or the director involving revocation or suspension of an inspectors commission or inspection certificate shall not be made until the aggrieved party has been afforded an opportunity for a hearing after notice has been given in

accordance with the Administrative Procedure Act of North Carolina as the same appears in Chapter 150A of the General Statutes.

(b) Final decisions by the board or director involving denial of an application for a certificate of competency, refusal to issue or renew an inspection certificate need not await a hearing on the merits. After the decision is conveyed to the affected party, that party shall have the right to appeal to the commissioner for review within 30 days. The commissioner shall afford the aggrieved party an opportunity for a hearing after which he may affirm, modify or revoke the decision below. The decisions of the board or the director within this category shall not be stayed pending review by the commissioner.

(c) After review by the commissioner of a decision of the board or the director, a party may obtain judicial review within 30 days in accordance with the Administrative Procedure Act.

Sec. 11. Criminal penalties. It shall be unlawful for any person, firm, partnership, association or corporation to operate or use any boiler or pressure vessel in this State, and to which this act applies, without a valid inspection certificate issued by the North Carolina Department of Labor. Any person, firm, partnership, association or corporation found to be operating or using a boiler or pressure vessel without a valid inspection certificate shall be guilty of a misdemeanor and upon conviction be subject to a fine of one thousand dollars ($1,000) or imprisonment for 30 days, or both in the discretion of the court.

Any person who knowingly and willfully misrepresents himself as an authorized inspector in North Carolina, shall be guilty of a misdemeanor and upon conviction thereof be fined up to one thousand dollars ($1,000) or imprisonment for six months, or both in the discretion of the court.

Sec. 12. All laws and clauses of laws in conflict with this act are repealed.

Sec. 13. This act shall become effective on January 1, 1976.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

S. B. 66 CHAPTER 896

AN ACT TO ESTABLISH REGIONAL EDUCATION TRAINING CENTERS FOR CHILDREN WITH SPECIAL NEEDS.

Whereas, sixty-one percent of the teachers of children with special needs are not certified in the area of special need in which they teach; and

Whereas, it is conservatively estimated that special educational needs are found in fourteen percent of all preschool and school age children in the State; and

Whereas, there is an immediate and urgent need to conduct in-service training programs in order that special education teachers obtain certification; and

Whereas, a legislative commission has closely observed the programmatic requirements for children with special needs; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Article 38C of G.S. 115 is hereby amended by rewriting same as follows:

"§ 115-315.16. *Creation.*—There is hereby established within the Department of Public Instruction a system of Regional Educational Training Centers. Said centers shall be equitably distributed across the State as shall be

determined by the Superintendent, provided that such centers are located in reasonable proximity to one of the Developmental Evaluation Centers operated by the Department of Human Resources.

"§ 115-315.17. *Functions.*—The centers shall have the following functions:

(1) To provide in-service training to all special education teachers and other professionals as defined by the Superintendent.

(2) To develop in kindergarten and primary grade teachers the necessary skills to detect potential special educational needs and the capability to plan special educational programs.

(3) To provide in-service training and consultative services to a parent or guardian of a child with special needs and to appropriate public school administrative and management personnel.

(4) To work in concert with the various local human resources agencies to the end that multiple and duplicative services provided at various times and by various agencies of the State may be obviated.

(5) To conduct an in-depth evaluation of the impact of in-service training on the delivery of services to children with special needs within the public schools on an annual basis in compliance with such rules and regulations as the Superintendent may promulgate.

"§ 115-315.18. *Organization of centers.*—Employees of the centers shall be employees of the Department of Public Instruction appointed by the Superintendent subject to the approval of the State Board. Employees of those centers now in place and operational shall be employees of the Department, and those centers now in place and operational shall fulfill the functions set forth for new centers.

"§ 115-315.19. *Rules and regulations.*—The Superintendent shall develop and promulgate appropriate rules and regulations for the operation of the centers subject to the approval of the State Board. Such rules and regulations shall prescribe the precise operational responsibility of the centers and shall include a description of the operational relationship that shall exist with the various local human resources agencies."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

S. B. 265 **CHAPTER 897**

AN ACT TO APPROPRIATE FUNDS FOR USE AS A GRANT-IN-AID TO CHEROKEE BOYS' CLUB CHILDREN'S HOME.

The General Assembly of North Carolina enacts:

Section 1. In addition to all other funds appropriated at the 1975 Session of the General Assembly for grants-in-aid to private child-caring institutions, there is hereby appropriated out of the General Fund of the State the sum of fifteen thousand dollars ($15,000) for each fiscal year of the 1975-77 biennium to the North Carolina Department of Human Resources as a grant-in-aid for Cherokee Boys' Club Children's Home.

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

S. B. 416 **CHAPTER 898**

AN ACT TO EFFECT RETROACTIVE PAY TO STATE HIGHWAY PATROLMEN FOR THE MONTH OF JULY, 1974.

Whereas, a five percent (5%) salary adjustment was placed in effect on August 1, 1974, for members of the State Highway Patrol; and

Whereas, it was the sense of the 1973 (Second Session 1974) General Assembly that the members of the State Highway Patrol be given a five percent (5%) salary adjustment effective July 1, 1974; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby granted to the members of the State Highway Patrol a five percent (5%) salary adjustment, over and above all other pay raises, for the period from July 1, 1974, through July 31, 1974. This five percent (5%) salary adjustment shall be paid retroactively to individuals who were active members of the State Highway Patrol for all or a portion of the month of July, 1974.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

S. B. 546 **CHAPTER 899**

AN ACT TO IMPLEMENT AND APPROPRIATE FUNDS FOR A STATE BRIDGE REPLACEMENT PROGRAM.

The General Assembly of North Carolina enacts:

Section 1. Chapter 136 of the North Carolina General Statutes is hereby amended by adding a new section to be numbered G.S. 136-76 and to read as follows:

"§ 136-76(a). The Board of Transportation is hereby directed to replace all bridges on the State highway system containing long through truss spans over 125 feet long with less than a 12 feet clear roadway width. The board shall initiate a bridge replacement program as soon as possible and shall complete the replacement program of all such bridges by June 30, 1980. All such bridges now on the State highway system shall be replaced except those on roads where the traffic volume is low and the elimination of the bridge would be a minimum inconvenience to the public and the replacement cannot be justified. Such bridges not replaced shall be removed and taken off the State highway system.

(b) The Environment Policy Act contained in Article 1 of Chapter 113A shall not apply to the bridge replacement program provided for by this section."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

S. B. 633

CHAPTER 900

AN ACT TO AMEND THE NORTH CAROLINA FEED LAW OF 1973 TO EXEMPT CERTAIN MANUFACTURERS OF COMMERCIAL FEED FROM THE INSPECTION FEE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 106-284.33 is hereby amended by adding a subsection (24) to read as follows:

"The term 'contract feeder' means a person who, as an independent contractor, feeds commercial feed to animals pursuant to a contract between that person and a manufacturer of commercial feeds whereby such commercial feed is supplied, furnished, or otherwise provided to such person by the said manufacturer and whereby such person's remuneration is determined all or in part by feed consumption, mortality, profits, or amount or quality of product produced by the independent contractor."

Sec. 2. G.S. 106-284.40(b) is hereby amended by adding a subsection (6) to read as follows:

"Manufacturers of commercial feeds may appear before the board, and after finding there exists a contract feeder relationship between a manufacturer of commercial feeds and an independent contractor, the board may issue annual numbered permits exempting that manufacturer of commercial feed from paying the inspection fee assessed by the provisions of this law for that feed delivered to the contract feeder. The manufacturer of ingredients who sells such ingredients to manufacturers of commercial feeds under this subsection shall have in his possession the exemption number of the permit referred to in G.S. 106-284.34(b) and/or the permit issued by the board under this subsection before the supplier may be relieved of the responsibility for payment of the inspection fee.

The holder of said permit may voluntarily return said permit to the commissioner for cancellation at which time said holder may not apply for or receive another exemption permit under this subsection for a period of 12 months. The exemption permits under this subsection shall be renewable automatically every year by the board without additional findings of fact unless it is brought to the board's attention by the commissioner or his duly designated officer or employee that there no longer exists the relationship of a contract feeder between the manufacturer of commercial feeds and an independent contractor. In the event the commissioner or his duly designated officer or employee notifies the board when the permit is to be automatically renewed or anytime the permit is in effect, that there no longer exists a contract feeder relationship for the permit holder, the board shall determine the veracity of the notification and revoke said permit if the facts are found to be true by the board.

Commercial feeds exempt from inspection fees under this subsection shall not be subject to sampling and analysis other than as may be necessary to determine compliance with Good Manufacturing Practice Regulations pertaining to medicated animal feed and medicated feed premixes established under G.S. 106-284.38(d) of this law."

Sec. 3. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

S. B. 641 **CHAPTER 901**

AN ACT TO APPROPRIATE FUNDS FOR COMPLETION OF THE RESTORATION OF FORT DEFIANCE AND ITS DEPENDENCIES IN CALDWELL COUNTY.

Whereas, William Lenoir came as a young man to the Yadkin Valley of North Carolina in 1775, became an officer in the American Revolution, served as a leader in State government for many years, and was president of the Board of Trustees of the University of North Carolina; and

Whereas, Fort Defiance, the home of General Lenoir in Caldwell County, has been acquired by Fort Defiance, Incorporated; and

Whereas, this nonprofit corporation, with the assistance of the State, federal, county, and municipal governments, private foundations, and citizens of the area, has expended approximately two hundred thousand dollars ($200,000) in the acquisition and restoration of this historic place for the education and enjoyment of our people; and

Whereas, the restoration can be completed and the building opened to the public in 1977 provided additional funds are made available; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, for assistance in completing the restoration of Fort Defiance and its dependencies in Caldwell County for the 1975-76 fiscal year the sum of twelve thousand five hundred dollars ($12,500), provided a like amount is raised by Fort Defiance, Incorporated; and for the 1976-77 fiscal year for assistance in completing the restoration of Fort Defiance and its dependencies in Caldwell County the sum of twelve thousand five hundred dollars ($12,500), provided a like amount is raised by Fort Defiance, Incorporated.

Sec. 2. Funds appropriated in this act shall be expended only in accordance with G.S. 121-11 and G.S. 143-31.2.

Sec. 3. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

S. B. 670 **CHAPTER 902**

AN ACT TO APPROPRIATE FUNDS FOR THE PRESERVATION OF THE TOWN OF HISTORIC ROCKFORD, NORTH CAROLINA.

Whereas, the Town of Rockford, North Carolina, was the county seat of Surry County from 1789 to 1850; and

Whereas, there are numerous structures and sites in this town of rich historic significance such as the old courthouse building, the York Inn and the Masonic Temple; and

Whereas, it is appropriate that State funds should be appropriated for the repair, restoration and preservation of the historic sites of Rockford, North Carolina; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, for repair,

restoration and preservation of the historic sites of Rockford, North Carolina, the sum of ten thousand dollars ($10,000) for fiscal year 1976-1977; provided a like amount is raised by Historic Rockford after July 1, 1975.

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

S. B. 678

CHAPTER 903

AN ACT TO RAISE THE MINIMUM SALARIES OF LAW ENFORCEMENT OFFICERS AND TO EXTEND THE APPLICATION OF THE LAW ENFORCEMENT OFFICERS MINIMUM SALARY ACT.

The General Assembly of North Carolina enacts:

Section 1. Section 7 of Chapter 766 of the 1973 Session Laws is hereby amended by striking the words and numbers "six thousand dollars ($6,000)" and inserting in lieu thereof the words and numbers "six thousand five hundred dollars ($6,500)".

Sec. 2. There is hereby appropriated from the General Fund to the Criminal Justice Training and Standards Council the sum of five hundred eighty-five thousand dollars ($585,000) for fiscal year 1976-1977 to be expended in the implementation and administration of the Law Enforcement Officers Minimum Salary Act, thereby extending the application of the Law Enforcement Officers Minimum Salary Act until October 1, 1977.

Sec. 3. This act shall become effective July 1, 1976.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

S. B. 933

CHAPTER 904

AN ACT APPROPRIATING FUNDS TO THE CITY OF RALEIGH TO AID IN THE CONSTRUCTION OF A MALL FROM THE STATE CAPITOL TO THE PROPOSED RALEIGH CIVIC CENTER PLAZA.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the City of Raleigh the sum of two hundred twenty-five thousand dollars ($225,000) for fiscal year 1976-1977 to aid in construction of a mall from the State Capitol to the proposed Raleigh Civic Center Plaza.

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 59 CHAPTER 905

AN ACT TO APPROPRIATE FUNDS FOR THE NORTH CAROLINA MUSEUM OF LIFE AND SCIENCE.

Whereas, the North Carolina Museum of Life and Science, located in Durham, North Carolina, has, over the past 27 years, provided millions of the residents of this State with a Museum of Life and Science; and

Whereas, the museum has permanent displays of our environment, space exploration and historical data dealing with our total background; and

Whereas, the museum had 360,000 visitors representing people from 40 or more counties in the State; and

Whereas, the City and County of Durham did in 1973 furnish ninety-nine thousand dollars ($99,000) in operating costs; and

Whereas, the museum now owns 28 acres of land, has many buildings and exhibits and now needs additional funds for capital improvements and for expansion; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated for the 1976-1977 fiscal year from the General Fund to the Department of Cultural Resources for the continuation of capital improvements and operating funds the sum of twenty-five thousand dollars ($25,000) for the use and benefit of the North Carolina Museum of Life and Sciences.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 314 CHAPTER 906

AN ACT TO APPROPRIATE FUNDS TO THE NORTH CAROLINA DEPARTMENT OF AGRICULTURE AND THE NORTH CAROLINA AGRICULTURAL EXTENSION SERVICE TO DEVELOP BEEF PRODUCTION IN THE EIGHTEEN MOUNTAIN COUNTIES OF THE WESTERN EXTENSION DISTRICT.

Whereas, the 18 counties of Avery, Buncombe, Burke, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Polk, Rutherford, Swain, Transylvania and Yancey, making up the Western Extension District of our State, are among the oldest and largest beef cattle producing counties with over 9,000 farms growing meat animals for an annual income of over twenty-seven million dollars ($27,000,000) per year; and

Whereas, these same counties have a present beef cattle population of 59,000 brood cows and 73,000 yearling steers, but by converting the 9,600 acres of idle crop land and 33,000 acres of unimproved pasture land to beef production these numbers could be increased by at least fifty percent (50%); and

Whereas, a cooperative marketing program for these counties at the present includes five out of a total of 11 yearling steer sales in the State, two out of the nine stocker cattle sales, and four out of 23 feeder calf sales with a potential to expand all of the sales in this area; and

Whereas, there are no beef cattle result-demonstrations presently conducted in the area and the area does include the Mountain Research Station

containing some of but not all of the resources needed for beef cattle demonstrations; and

Whereas, the Mountain Research Station in order to have the professional, clerical and technical people associated with this and other programs will need to provide additional office and storage space; and

Whereas, the resources needed for these specialized beef cattle extension result-demonstration and capital improvement activities extend beyond presently available resources in terms of manpower, operating funds and capital improvement funds of the North Carolina Agricultural Extension Service and the North Carolina Department of Agriculture; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund, in addition to all other appropriations, to the North Carolina Agricultural Extension Service (N. C. Budget Code 18147) the sum of thirty-four thousand six hundred two dollars ($34,602) and to the North Carolina Department of Agriculture (N. C. Budget Code 28021) the sum of twenty thousand three hundred eighty-seven dollars ($20,387) in each of the two fiscal years of the biennium 1975-77.

Sec. 2. There is hereby appropriated from the General Fund, in addition to all other appropriations, to the North Carolina Department of Agriculture the sum of twenty-six thousand five hundred dollars ($26,500) with this sum to become a part of the North Carolina Department of Agriculture Capital Improvement Fund - 1975.

Sec. 3. The above named agencies shall handle and coordinate the administration and expenditure of all funds appropriated by this action and for the purpose herein designated shall be accounted for and reported to the fiscal and financial system of the agency to which the appropriation is made as herein set forth.

Sec. 4. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 352 CHAPTER 907

AN ACT TO PROVIDE FUNDS TO HELP DEFRAY THE EXPENSES OF THE NORTH CAROLINA STATE ASSOCIATION OF RESCUE SQUADS, INC.

Whereas, the North Carolina State Association of Rescue Squads, Inc., as originally organized in 1957 had seven member squads and has now increased in membership to a current total of 225 squads composed of 5,600 individual members; and

Whereas, the members of the Association are volunteers who are trained in the art of Emergency Medical Services and Rescue, who purchase their own personal equipment and uniforms, and who receive no remuneration for their services; and

Whereas, the member squads of the Association answer annually in excess of 58,000 calls within their communities, devote more than 325,000 man hours toward assisting their fellowmen in times of distress, spend more than 127,000

man hours annually to improve their knowledge in Emergency Medical Services and Rescue Techniques, and travel in excess of 1,500,000 miles annually in their rescue vehicles in order to accomplish these activities; and

Whereas, the services rendered by the Association are provided free of charge to the beneficiaries; and

Whereas, funds are urgently needed to establish a headquarters for the Association and to expand all of the services rendered to the State of North Carolina and its residents; and

Whereas, the quality and extent of services to be rendered to the State of North Carolina and its residents will be enormously enhanced by providing funds to help defray the operational expenses of the Association; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund of the State to the Department of Human Resources for a grant-in-aid to the North Carolina State Association of Rescue Squads, Inc., the amount of twenty-five thousand dollars ($25,000) for each year of the 1975-1977 biennium for the use of the said North Carolina State Association of Rescue Squads, Inc., to help defray the expenses incurred in the operation of the Association and to improve and expand the services rendered by the Association. These funds are in addition to any other funds appropriated for these purposes.

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 361 CHAPTER 908

AN ACT TO APPROPRIATE CAPITAL IMPROVEMENT FUNDS TO MITCHELL COMMUNITY COLLEGE.

Whereas, Mitchell Community College's enrollment, since joining the public system, has risen from an annual average of 450 to a total of 812, almost all of which increase has been in the technical and vocational programs; and

Whereas, in addition to the original transfer of a physical plant valued at two million dollars ($2,000,000), the citizens of Iredell County have put up one million two hundred fifty thousand dollars ($1,250,000) in tax funds for renovations and expansion of administrative and classroom facilities on the campus; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated for the 1976-77 fiscal year from the General Fund to the State Board of Education, Department of Community Colleges, the sum of one hundred thousand dollars ($100,000) for the purpose of making available State fund matching grants to aid the construction of administrative and instructional capital improvement facilities at Mitchell Community College in Iredell County.

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 364 **CHAPTER 909**

AN ACT TO APPROPRIATE FUNDS TO THE UNIVERSITY OF NORTH CAROLINA AT GREENSBORO TO BE USED FOR RENOVATING PARKWAY PLAYHOUSE.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund the sum of twenty-five thousand dollars ($25,000) to the University of North Carolina at Greensboro for the 1975-1976 fiscal year for use in renovating the Parkway Playhouse in Burnsville, North Carolina.

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 366 **CHAPTER 910**

AN ACT TO MAKE THE VANCE-GRANVILLE TECHNICAL INSTITUTE A COMPREHENSIVE COMMUNITY COLLEGE.

The General Assembly of North Carolina enacts:

Section 1. The Vance-Granville Technical Institute, an institutional member of the North Carolina Community College System, is hereby created a comprehensive community college to be known as Vance-Granville Community College, which institution shall continue to be subject to the provisions of Chapter 115A of the General Statutes of North Carolina. The State Board of Education and the Board of Trustees of Vance-Granville Community College shall provide for students enrolling in Vance-Granville Community College such programs of instruction in occupational and academic education and training as are authorized or required by provisions of Chapter 115A for a community college as therein defined.

Sec. 2. There is hereby appropriated to the State Board of Education, Department of Community Colleges, from the General Fund of the State, in addition to all other appropriations which may be made by the 1975 General Assembly therefrom, the sum of one hundred thousand dollars ($100,000) for the 1976-1977 fiscal year, which appropriations shall be placed in the Operations Budget of the Department of Community Colleges for distribution, together with any other funds which may be made available, to Vance-Granville Community College in accordance with provisions of the funding formulas designed and maintained by the State Board of Education pursuant to G.S. 115A-5.

Sec. 3. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 4. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 375 **CHAPTER 911**

AN ACT TO APPROPRIATE FUNDS TO NORTH CAROLINA STATE UNIVERSITY FOR RESEARCH AND DEVELOPMENT OF A SOLAR HEATING AND COOLING SYSTEM WORKING MODEL FOR NEW AND EXISTING HOMES, OFFICE BUILDINGS, SCHOOLS AND INDUSTRIAL PLANTS.

Whereas, there are no known fossil fuel deposits in North Carolina that can be commercially developed, but this State is a recognized leader in the development and dissemination of knowledge; and

Whereas, solar energy is the world's most abundant renewable energy resource; and

Whereas, the public welfare of this State would benefit from the development of an inexpensive solar house heating and cooling system that can be applied to existing houses or new houses under construction and designed in such a manner, size and cost to encourage its use by home owners and builders; and

Whereas, much of the basic research into solar energy systems has been accomplished and disseminated and there is a vital need for demonstrated applications of solar energy systems on average North Carolina homes, office buildings, schools and industrial plants; and

Whereas, the aim of such research and development should not be intellectual inquiry as an end in itself, but rather the widespread introduction of new systems for the utilization of solar energy for homes, office buildings, schools and industrial plants for heating purposes; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the School of Engineering and the School of Design of North Carolina State University the sum total of twenty thousand dollars ($20,000) for the fiscal year 1975-1976, and the sum of ten thousand dollars ($10,000) for the fiscal year 1976-1977, for the purpose of research and development of a working solar house heating and cooling system of a kind and size that can be applied to existing houses, and new houses under construction, and to office buildings, schools and industrial plants; and such research and development is to be conducted in a manner consistent with the purposes set forth in the preamble to this act.

Sec. 2. North Carolina State University is hereby authorized to spend a portion of the funds herein appropriated to design, construct and display at the North Carolina State Fair a solar heating and cooling system model for the purpose of demonstrating and encouraging the use of solar energy for the heating and cooling of existing homes, new homes under construction, office buildings, schools and industrial plants in North Carolina.

Sec. 3. North Carolina State University is hereby authorized to apply for, obtain and spend any federal grants of funds available from the federal government for use in a manner consistent with the purposes herein designated.

Sec. 4. North Carolina State University is hereby authorized to apportion the funds herein appropriated, and any matching federal funds obtained as authorized herein, among the School of Engineering and its departments, the School of Design and its departments, and any joint projects

between those two schools, in any manner consistent with the purposes herein designated.

Sec. 5. All expenditures made from the funds appropriated by this act and for the purposes herein designated shall be accounted for and reported according to the fiscal and financial system of the agencies to whom the appropriations are made as herein set forth.

Sec. 6. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 386 CHAPTER 912

AN ACT TO PROVIDE FOR RESEARCH STUDIES ON GENETIC IMPROVEMENT, CULTURAL AND PEST CONTROL PRACTICES, MECHANIZATION AND QUALITY IMPROVEMENT IN CHRISTMAS TREE PRODUCTION SO AS TO INCREASE NORTH CAROLINA FARM INCOME FROM CHRISTMAS TREES.

Whereas, Christmas trees are an important and rapidly growing source of farm income in North Carolina, estimated cash income to producers having increased from $1,400,000 in 1970 to $3,000,000 in 1974; and

Whereas, there is a large market potential for natural Christmas trees in North Carolina and nearby market areas which is now being filled largely with inferior natural trees produced in the Northern States and Canada; and

Whereas, North Carolina produced Christmas trees are of superior quality and could capture a large share of this market, thereby increasing by many fold income to North Carolina producers, if production practices were improved and costs lowered so as to be more price competitive; and

Whereas, the Fraser fir Christmas tree is considered the finest Christmas tree grown, and North Carolina has almost all of the natural Fraser fir range, and therefore has the greatest potential of all the states for large-scale commercial production of these trees; and

Whereas, the mountain counties, in particular, will benefit greatly from a growing Christmas tree industry; and

Whereas, realization of this potential for an improved competitive position for North Carolina produced Christmas trees depends critically upon the development through research of Christmas trees genetically superior in quality, growth rate and pest resistance on the development, cultural and pest control practices which enhance quality and reduce production costs and on mechanization of pruning and other production operations so as to reduce labor requirements and reduce costs; and

Whereas, the resources needed for these specialized research studies exceed presently available resources in terms of manpower, equipment and operating funds of the North Carolina Agricultural Experiment Station; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund of the State to the North Carolina Agricultural Experiment Station the sum of twenty-five thousand dollars ($25,000) for the 1976-1977 fiscal year for the general purposes set forth in the preamble to this act.

Sec. 2. The above-named agency of the State shall handle and coordinate the administration and expenditure of all funds appropriated by this act and all

expenditures made from funds appropriated by this act and for the purposes herein designated shall be accounted for and reported to the fiscal and financial system of the agency to which the appropriation is made as set forth herein.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 519 CHAPTER 913

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF HUMAN RESOURCES TO ENABLE IT TO SUBSIDIZE COUNTY JUVENILE DETENTION HOMES WHICH PROVIDE REGIONAL SERVICES.

Whereas, the 1974 Session of the 1973 General Assembly enacted legislation set forth in G.S. 134-38 directing the Department of Human Resources to develop a State subsidy program to pay a county detention home which provides regional juvenile detention services and meets State standards; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund of the State of North Carolina to the North Carolina Department of Human Resources the sum of fifty thousand dollars ($50,000) for the fiscal year 1975-1976 and one hundred fifty thousand dollars ($150,000) for fiscal year 1976-77 for the purpose of enabling the Department of Human Resources to meet its legal duty to subsidize counties in operating county detention homes which serve as regional detention homes.

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 550 CHAPTER 914

AN ACT TO APPROPRIATE FUNDS TO CHEROKEE COUNTY FOR A MUCH NEEDED SOUTHWESTERN NORTH CAROLINA FARMERS MARKET.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated to the Department of Agriculture for Cherokee County, North Carolina, out of the General Fund of the State of North Carolina the sum of one hundred thousand dollars ($100,000) for the fiscal year 1975-76. The funds hereby appropriated shall be used for the purpose of purchasing land and building a facility to be known as the Southwestern North Carolina Farmers' Market, which will serve as a point of assembly of produce for grading, packing and shipping to other areas of the United States, and which will also serve as a livestock auction market.

Sec. 2. The sum appropriated by Section 1 is to represent approximately twenty percent (20%) of the needed funds. The remainder is to be provided by local county government in Cherokee and adjoining counties in addition to federal sources.

Sec. 3. The facility will be operated on a self-supporting basis governed by a board of directors aided by the chairman of the county commissioners. One

member will be from the North Carolina Department of Agriculture to serve in an advisory capacity.

Sec. 4. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 625 CHAPTER 915

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF HUMAN RESOURCES TO MEET INCREASED OPERATING COSTS FOR CARE OF SPECIAL ASSISTANCE RECIPIENTS IN FAMILY CARE HOMES AND HOMES FOR THE AGED.

Whereas, in order to cover the increased costs of Family Care Homes and Rest Homes, it is the intent of the General Assembly to increase payments to State/County Special Assistance for Adults by an average of one dollar ($1.00) per day, or an average of thirty dollars ($30.00) per month; and

Whereas, by the provisions of Section 17 of Ratified Chapter 875 of the 1975 Session of the North Carolina General Assembly, the General Assembly, has provided for an increase of thirty-eight cents (38¢) per day; and

Whereas, additional State funds are needed to increase the payment by sixty-two cents (62¢) per day; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The sum of nine hundred sixteen thousand nine hundred sixty-two dollars ($916,962), for the fiscal year 1975-1976, and the sum of nine hundred sixty-two thousand one hundred thirty dollars ($962,130), for the fiscal year 1976-1977, is hereby appropriated from the General Fund to the Department of Human Resources in order to meet the increased operating costs for care of Special Assistance recipients in family care homes and homes for the aged.

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 627 CHAPTER 916

AN ACT TO PROVIDE FOR PAYMENT BY THE ATTORNEY GENERAL OF CLAIMS AGAINST COUNTY AND CITY BOARDS OF EDUCATION FOR ACCIDENTS INVOLVING SCHOOL BUSES AND SCHOOL TRANSPORTATION SERVICE VEHICLES AND TO APPROPRIATE FUNDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-300.1(a) as the same appears in the 1974 Replacement Volume 3C of the General Statutes is hereby amended by inserting on line 5 after the word "paid", the words "or authorized to be paid"; and by deleting the word "Nine" and by inserting in lieu therof the word "Public"; and on line 6, by deleting the word "Months".

Sec. 2. G.S. 143-300.1(c) and (d), as the same appear in the 1974 Replacement Volume 3C of the General Statutes, are hereby rewritten to read as follows:

"(c) In the event that the Industrial Commission shall make award of damages against any county or city board of education pursuant to this section, the Attorney General shall draw a voucher for the amount required to pay such award. Neither the county or city boards of education, or the county or city administrative unit shall be liable for the payment of any award made pursuant to the provisions of this section in excess of the amount paid upon such voucher by the Attorney General. Settlement and payment may be made by the Attorney General as provided in G.S. 143-295.

(d) In the event that the driver of a public school bus or school transportation service vehicle is sued in a civil action as an individual, subject to the provisions of Article 31A of Chapter 143 of the General Statutes, the Attorney General is hereby authorized to defend such driver through the use of a member of his staff, or, in his discretion, employ private counsel. The Attorney General is authorized to draw a voucher for the payment of any judgment rendered aginst such driver not to exceed the limit provided in the Tort Claims Act; provided, that the authority granted in this subsection shall be limited to only those claims which would be within the jurisdiction of the Industrial Commission under the Tort Claims Act."

Sec. 3. The sum of five hundred ninety thousand dollars ($590,000) appropriated for each year of the biennium 1975-77 in the 1975 Current Operations Appropriations Bill (ratified Senate Bill 45) to the Department of Public Instruction is transferred to the North Carolina Department of Justice for the payment of claims and claim expenses arising out of accidents involving school buses and school service vehicles.

Sec. 4. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 630 CHAPTER 917

AN ACT ESTABLISHING A TUITION ASSISTANCE BENEFIT FOR MEMBERS OF THE NORTH CAROLINA NATIONAL GUARD AND THE APPROPRIATION OF FUNDS TO PROVIDE THIS BENEFIT.

The General Assembly of North Carolina enacts:

Section 1. The provisions of this act shall constitute an additional Article to be added to Chapter 127 of the General Statutes. This Article and its sections shall be codified as necessary to conform to the numbering of preceding Articles and sections of Chapter 127 of the General Statutes, as the same may be amended from time to time.

Sec. 2. Short title. This act shall be known and may be cited as the North Carolina National Guard Tuition Assistance Act of 1975.

Sec. 3. Purpose. The General Assembly of North Carolina, recognizing that the North Carolina National Guard is the only organized, trained and equipped military force subject to the control of the State, hereby establishes a program of tuition assistance for qualifying guard members for the purpose of encouraging voluntary membership in the guard, improving the educational level of its members, and thereby benefiting the State as a whole.

Sec. 4. Definitions. (a) Business or trade school. Any school within the State of North Carolina which is licensed by the State Board of Education and

listed by that board as an approved private business school or an approved private trade school.

(b) Private educational institutions. Any junior college, senior college or university which is operated and governed by private interests not under the control of the federal, State or any local government, which is located within and licensed by the State of North Carolina, which does not operate for profit, whose curriculum is primarily directed toward the awarding of associate, baccalaureate or graduate degrees, which agrees to the applicable administration and funding provisions of this Article.

(c) State educational institutions. Any of the constituent institutions of the University of North Carolina, or any community college or technical institute operated under the provision of Chapter 115A or Article 3 of Chapter 116 of the General Statutes of North Carolina.

(d) Secretary. The Secretary of Military and Veterans Affairs or his designee.

Sec. 5. Benefit. The benefit provided under this Article shall consist of a monetary tuition assistance grant not to exceed five hundred dollars ($500.00) per academic year to qualifying members of the North Carolina National Guard. Benefits shall be payable for a period of one academic year at a time, renewable at the option of the secretary for a maximum of four academic years or until the course of study being pursued has been completed, whichever comes first.

Sec. 6. Eligibility. (a) Active members of the North Carolina National Guard who have completed a minimum of one year of satisfactory service and who are enrolled or who shall enroll in any business or trade school, private educational institution or State educational institution shall be eligible to apply for this tuition assistance benefit: Provided, that the applicant has a minimum obligation of two years remaining as a member of the national guard from the end of the academic period for which tuition assistance is provided or that the applicant commit himself or herself to extended membership for at least two additional years from the end of said academic period.

(b) This tuition assistance benefit shall be applicable to students in the following categories:

(1) Students seeking to achieve completion of their secondary school education at a community college or technical institute.

(2) Students seeking trade or vocational training or education.

(3) Students seeking to achieve a two-year associate degree.

(4) Students seeking to achieve a four-year baccalaureate degree.

Sec. 7. Administration and funding. (a) The Secretary of Military and Veterans Affairs is charged with the administration of the tuition assistance program under this Article. He may delegate administrative tasks to other persons within the Department of Military and Veterans Affairs as he deems best for the orderly administration of this program.

(b) The secretary shall determine the eligibility of applicants, select the benefit recipients, establish the effective date of the benefit, and may suspend or revoke the benefit if he finds that the recipient does not maintain an adequate academic status, or if the recipient engages in riots, unlawful demonstrations, the seizure of educational buildings, or otherwise engages in disorderly conduct, breaches of the peace, or unlawful assemblies. The secretary shall maintain such records and shall promulgate such rules and regulations as he deems necessary

for the orderly administration of this program. The secretary may require of business or trade schools or State or private educational institutions such reports and other information as he may need to carry out the provisions of this Article and he shall disburse benefit payments for recipients upon certification of enrollment by the enrolling institutions.

(c) All benefit disbursements shall be made to the business or trade school or State or private educational institution concerned, for credit to the tuition account of each recipient.

(d) The participation by any business or trade school or private educational institution in this program shall be subject to the applicable provisions of this Article and to examination by the State Auditor of the accounts of the benefit recipients attending or having attended such private schools or institutions. The secretary may defer making an award or may suspend an award in any business or trade school or private educational institution which does not comply with the provisions of this Article relating to said institutions. The manner of payment to any business or trade school or private educational institution shall be as prescribed by the secretary.

(e) Irrespective of other provisions of this Article, the secretary may prescribe special procedures for adjusting the accounts of benefit recipients who, for reasons of illness, physical inability to attend classes or for other valid reason satisfactory to the secretary may withdraw from any business or trade school or State or private educational institution prior to the completion of the term, semester, quarter or other academic period being attended at the time of withdrawal.

Sec. 8. There is hereby appropriated from the General Fund to the Department of Military and Veterans Affairs the sum of two hundred twenty thousand dollars ($220,000) for the 1976-77 fiscal year for the purpose of this act.

Sec. 9. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 656 CHAPTER 918

AN ACT TO AMEND CHAPTER 523 OF THE 1973 SESSION LAWS WITH RESPECT TO WHOLLY SELF-LIQUIDATING PROJECTS AT NORTH CAROLINA STATE UNIVERSITY.

The General Assembly of North Carolina enacts:

Section 1. The purpose of this act is to amend Chapter 523 of the 1973 Session Laws of North Carolina with respect to certain projects at North Carolina State University at Raleigh by increasing the amounts authorized on a self-liquidating basis.

Sec. 2. Section 4 of said Chapter 523 of the 1973 Session Laws under the institutional subhead as indicated and affecting only the projects as listed in this act is amended to read as follows:

North Carolina State University at Raleigh		
1. Parking Structure II	$2,560,000	
Less Self-Liquidating	2,560,000	-0-
2. Residence Hall for 500 Students	$3,150,000	
Fixed Equipment	250,000	

Movable Equipment	100,000	
	$3,500,000	
Less Self-Liquidating	3,500,000	-0-
3. Married Student Apartments	$4,850,000	
Fixed Equipment	150,000	
	$5,000,000	
Less Self-Liquidating	5,000,000	-0-
4. Chapel	$ 360,000	
Fixed Equipment	15,000	
Movable Equipment	5,000	
	$ 380,000	
Less Self-Liquidating	380,000	-0-

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 871 CHAPTER 919

AN ACT TO APPROPRIATE FUNDS TO THE NORTH CAROLINA DEPARTMENT OF HUMAN RESOURCES FOR THE FUNDING OF LOCAL SICKLE CELL AND GENETIC CENTERS.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated to the North Carolina Department of Human Resources out of the General Fund, in addition to all other sums, the sum of one hundred ninety-two thousand dollars ($192,000) for each year of the 1975-77 biennium, to be used by the North Carolina Department of Human Resources for the funding of local sickle cell and genetic centers.

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 914 CHAPTER 920

AN ACT TO INCREASE THE MAXIMUM ALLOWABLE PAYMENT TO SKILLED NURSING HOMES FROM TWENTY-FIVE DOLLARS ($25.00) A DAY TO TWENTY-EIGHT DOLLARS ($28.00) A DAY.

Whereas, skilled nursing homes have long played a significant role in the health and well-being of citizens in all communities throughout North Carolina; and

Whereas, the continued existence of these skilled nursing homes is vital to the health and well-being of all of North Carolina's citizens both now and in the future; and

Whereas, the current pressure created by an inflationary economy jeopardizes the proper operation and maintenance of these skilled nursing homes; and

Whereas, the General Assembly of North Carolina believes that the protection and health care offered to citizens of North Carolina by these skilled nursing homes is desirable and in the public interest; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The maximum allowable payment to skilled nursing homes is increased from twenty-five dollars ($25.00) a day to twenty-eight dollars ($28.00) a day. To provide for this increase, there is hereby appropriated from the General Fund of the State, to the Department of Human Resources in addition to all other funds that may have been appropriated for this purpose, the sum of five hundred ninety-four thousand dollars ($594,000) for the fiscal year beginning July 1, 1975, and the sum of six hundred nine thousand dollars ($609,000) for the fiscal year beginning July 1, 1976.

Sec. 2. Section 12 of Chapter 875 of the 1975 Session Laws is amended by deleting the figure twenty-five dollars ($25.00) and inserting in lieu thereof the figure twenty-eight dollars ($28.00) to provide for an increased payment rate for skilled nursing facilities.

Sec. 3. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 7 CHAPTER 921

AN ACT TO APPROPRIATE FUNDS FOR THE INSTALLATION OF ELECTRONIC VOTING APPARATUS IN THE HOUSE CHAMBER.

The General Assembly of North Carolina enacts:

Section 1. The sum of one hundred twenty-five thousand ($125,000) is hereby appropriated for the fiscal year 1976-77 to the North Carolina Legislative Services Commission for the sole purpose of installing electronic voting apparatus in the North Carolina House Chamber. Such apparatus shall be installed no later than December 31, 1976.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 102 CHAPTER 922

AN ACT TO APPROPRIATE FUNDS FOR THE ESTABLISHMENT OF A SCHOOL OF VETERINARY MEDICINE AT NORTH CAROLINA STATE UNIVERSITY AT RALEIGH.

Whereas, the General Assembly of North Carolina, by Resolution 171 of the 1974 Session, requested the Board of Governors of the University of North Carolina "to give special attention to the need for training additional veterinary medical practitioners for North Carolina, and to report to the General Assembly of 1975, by not later than the 30th legislative day of the session, its findings and recommendations for administrative and legislative action with respect to the extent of the need for and the most effective and economical means of training additional veterinary medical practitioners for North Carolina"; and

Whereas, the General Assembly by G.S. 116-11(3) has authorized the Board of Governors of the University of North Carolina to "determine the functions, educational activities and academic programs of the constituent institutions" of the University of North Carolina; and

Whereas, pursuant to the request of the General Assembly, the Board of Governors has studied extensively the need for and most effective and economical means of training additional veterinarians for North Carolina; has found that there is a present need to create a school of veterinary medicine in

North Carolina; has established a school of veterinary medicine at North Carolina State University, conditional on the appropriation by the General Assembly of sufficient funds to initiate that school; and has filed with the General Assembly on the first day of its current session the report requested by the General Assembly in 1974; and

Whereas, the recommendations of the Governor and Advisory Budget Commission for appropriations for 1975-77 do not make provision for financing a school of veterinary medicine; and

Whereas, it is the conviction of the General Assembly that the State of North Carolina needs a school of veterinary medicine and needs it at the earliest feasible date; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated to the Board of Governors of the University of North Carolina from the General Fund the sum of five hundred thousand dollars ($500,000) for the fiscal year 1976-77 for the purpose of planning and developing a school of veterinary medicine at North Carolina State University at Raleigh and such related activity at North Carolina Agricultural and Technical State University as the Board of Governors may deem appropriate and complementary to the school of veterinary medicine.

Sec. 2. It is the sense of the General Assembly that the funds appropriated by the General Assembly of North Carolina shall be used for no purpose other than the planning, and developing of a school of veterinary medicine at North Carolina State University at Raleigh and such related activity at North Carolina Agricultural and Technical State University as the Board of Governors may deem appropriate and complementary to the school of veterinary medicine.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 134 CHAPTER 923

AN ACT TO MAKE THE MARTIN TECHNICAL INSTITUTE A COMPREHENSIVE COMMUNITY COLLEGE.

The General Assembly of North Carolina enacts:

Section 1. The Martin Technical Institute, an institutional member of the North Carolina Community College System, is hereby created a comprehensive community college to be known as Martin Community College, which institution shall continue to be subject to the provisions of Chapter 115A of the General Statutes of North Carolina. The State Board of Education and the Board of Trustees of Martin Community College shall provide for students enrolling in Martin Community College such programs of instruction in occupational and academic education and training as are authorized or required by provisions of Chapter 115A for a community college as therein defined.

Sec. 2. There is hereby appropriated to the State Board of Education, Department of Community Colleges, from the General Fund of the State, in addition to all other appropriations which may be made by the 1975 General Assembly therefrom, the sum of one hundred thousand dollars ($100,000) for the 1976-1977 fiscal year, which appropriations shall be placed in the

Operations Budget of the Department of Community Colleges for distribution, together with any other funds which may be made available, to Martin Community College in accordance with provisions of the funding formulas designed and maintained by the State Board of Education pursuant to G.S. 115A-5.

Sec. 3. There is also hereby appropriated to the State Board of Education, Department of Community Colleges, from the General Fund of the State, in addition to all other appropriations which may be made by the 1975 General Assembly therefrom, the sum of twenty-five thousand four hundred ten dollars ($25,410) for each year of the 1975-1977 biennium for the purpose of continuing the Traffic Services Training Program.

Sec. 4. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 5. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 149 CHAPTER 924

AN ACT TO MAKE AN APPROPRIATION TO THE DEPARTMENT OF NATURAL AND ECONOMIC RESOURCES FOR THE PROMOTION OF TOURISM IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund the sum of fifty thousand dollars ($50,000) for the 1975-1976 fiscal year and fifty thousand dollars ($50,000) for the 1976-1977 fiscal year, in addition to all other monies appropriated to the Department of Natural and Economic Resources, to be distributed on a matching dollar-for-dollar basis for use by nonprofit tourist promotional organizations in the State. The maximum amount to be given to any of these nonprofit promotional organizations is five thousand dollars ($5,000).

All funds not distributed at the end of each fiscal year will revert to the General Fund.

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 409 CHAPTER 925

AN ACT TO APPROPRIATE FUNDS FOR THE ORTHOPEDIC HOSPITAL AND REHABILITATION CENTER, INC., AT ASHEVILLE, TO FINANCE THE CONSTRUCTION OF A NEW REGIONAL SCHOOL FOR HANDICAPPED CHILDREN.

Whereas, the Orthopedic Hospital was established in 1938 as a nonprofit organization for the treatment of crippled children; and

Whereas, without proper care and rehabilitation, children suffering from chronic infections, congenital problems and severe accidents are the most heart-breaking members of our society; and

Whereas, fifty to sixty percent of these children are from indigent homes, unable to pay for specialized care; and

Whereas, the school was established in 1940 upon recommendations of practicing orthopedic physicians as a necessary part of the total child development; and

Whereas, the hospital now provides educational facilities for children from a 21-county regional area; and

Whereas, the regional needs have increased until the daily enrollment has reached 115 handicapped children; and

Whereas, the physical school facilities are totally inadequate for present needs and future development; and

Whereas, numerous independent studies have recommended a new and modern school building without barriers; and

Whereas, the State and Buncombe County are providing teachers, books, and transportation for the students; and

Whereas, the Orthopedic Hospital School has, in the past four years, returned to the public school system a total of 115 children, who would otherwise have been without an education; and

Whereas, the Buncombe County Commissioners made a study of the need for a new school for handicapped children and have determined to allocate two hundred thousand dollars ($200,000) for such construction, requesting that the hospital find matching funds; and

Whereas, provisions for the expansion from a capacity of 115 to 165 children will require an additional three hundred twenty-five thousand dollars ($325,000); Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Department of Human Resources for a grant-in-aid to the Orthopedic Hospital and Rehabilitation Center, Inc., at Asheville, in addition to all other appropriations, the sum of two hundred thousand dollars ($200,000) for fiscal year 1975-1976 and one hundred twenty-five thousand dollars ($125,000) for fiscal year 1976-1977 for the construction of a new regional school for handicapped children. These funds shall not become part of the continuing grant-in-aid to the Orthopedic Hospital and Rehabilitation Center, Inc., at Asheville.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 412 CHAPTER 926

AN ACT TO APPROPRIATE FUNDS TO ASSIST IN THE RESTORATION OF THE NEWBOLD-WHITE HOUSE IN PERQUIMANS COUNTY.

Whereas, the Perquimans County Restoration Association, Incorporated, has committed itself to the acquisition, restoration, and dedication to the public of the Newbold-White House in Perquimans County; and

Whereas, the Newbold-White House is situated on land granted to Joseph Scott in 1684 and is believed to be the oldest surviving dwelling house in North Carolina; and

Whereas, the General Assembly of North Carolina met at or near the site on several occasions between 1689 and 1697; and

Whereas, the house has been associated with personages of great importance in the early history of North Carolina; and

Whereas, the house is of architectural importance exhibiting the persistence of medieval building practices and architectural forms better than any other structure in the State; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, for assistance in the restoration of the Newbold-White House in Perquimans County for the 1975-76 fiscal year the sum of twelve thousand five hundred dollars ($12,500), provided a like amount is raised by the Perquimans County Restoration Association, Incorporated after July 1, 1975; and for the 1976-77 fiscal year the sum of twelve thousand five hundred dollars ($12,500), provided a like amount is raised by the Perquimans County Restoration Association, Incorporated after July 1, 1976.

Sec. 2. Funds appropriated in this act shall be expended only in accordance with Sections 121-11 and 143-31.2 of the General Statutes.

Sec. 3. This act shall be in full force and effect on and after July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 422 CHAPTER 927

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF CULTURAL RESOURCES TO ESTABLISH THE WESTERN NORTH CAROLINA HERITAGE CENTER.

Whereas, the cultural heritage of the mountain region of North Carolina has made an immeasurable contribution to all the citizens of the State; and

Whereas, the folk art and crafts of Western North Carolina enjoy a unique position in our national culture; and

Whereas, there is a need to give special public recognition to the region's early inhabitants; and

Whereas, it is desirable to preserve and perpetuate the history and cultural heritage of the 22 counties in the mountain region of North Carolina; and

Whereas, the Western North Carolina Historical Association has obtained a long-term lease commitment from the Asheville-Buncombe Technical Institute for the premises known as the Smith McDowell House on Victoria Road in Buncombe County, North Carolina, which Smith McDowell House is a residence of significant historical importance to all of Western North Carolina; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, for the 1976-77 fiscal year the sum of twenty-five thousand dollars ($25,000) provided a like amount is raised by the Western North Carolina Historical Association, Inc., after July 1, 1976, for the purpose of the restoration and maintenance of the Smith McDowell House. Funds appropriated in this act shall be expended only in accordance with G.S. 121-11 and G.S. 143-31.2.

Sec. 2. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 446 CHAPTER 928

AN ACT TO APPROPRIATE SUPPLEMENTARY FUNDS TO THE NORTH CAROLINA AGRICULTURAL EXPERIMENT STATION FOR DEVELOPING TOMATO VARIETIES SUITABLE TO THE WESTERN NORTH CAROLINA AREA, AND OTHER RESEARCH STUDIES ON POSTHARVEST PHYSIOLOGY AND MARKETING TOMATOES.

Whereas, Western North Carolina has established itself as the leading area in tomato production and is recognized nationally for the quality tomatoes produced in this area; and

Whereas, the tomato industry has progressed from a noncommercial enterprise in 1958 to the present enterprise involving 1200 producers in the 18 western counties, bringing in an annual average income of over $4,000,000 to the people of Western North Carolina; and

Whereas, the majority of these 1200 growers produce less than one acre of tomatoes, which is providing their main source of income; and

Whereas, the revenue received from tomato production in the State of North Carolina has generated income totaling around ten million dollars annually in Western North Carolina; and

Whereas, since the varieties presently being used in Western North Carolina are varieties that have been developed in the State of Florida and at present the breeding program there is no longer functioning, the tomato industry in Western North Carolina is in jeopardy because varieties are not available for maintaining the viability and continued success of the industry; and

Whereas, climatic conditions in Western North Carolina are unique, and tomato varieties have not been specifically developed for these conditions, variety development in the area is needed to assure the continued success of this industry; and

Whereas, plant diseases are a limiting factor in tomato production in Western North Carolina, and Verticillium wilt is becoming increasingly important on the limited suitable land available for tomato production, and broad spectrum disease resistant varieties are needed for the area; and

Whereas, without a breeding program the tomato industry in Western North Carolina was faltering in 1971, but the introduction of Florida's last variety has re-stimulated increased interest in 1974-75; however, the weakness of this variety is its lack of resistance to certain diseases, and thus its use is limited to a decreasing number of fields, the future of the tomato industry in Western North Carolina is solely dependent on the development of varieties for this area; and

Whereas, other limiting factors in maintaining a viable tomato industry in Western North Carolina are the need to continually up-date knowledge and develop new technology to maintain the competitiveness nationally in marketing and distribution of the tomato crop; and

Whereas, the tomato research resources needed to meet these industry demands extend far beyond those presently available in terms of manpower,

technical assistance, equipment, and operating funds of the North Carolina Agricultural Experiment Station; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund of the State to the North Carolina Agricultural Experiment Station the sum of seventy-two thousand dollars ($72,000) in each of the two fiscal years of the biennium beginning July 1, 1975, and ending June 30, 1977.

Sec. 2. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 456 CHAPTER 929

AN ACT TO PROVIDE COMMUNITY-BASED ALTERNATIVES TO STATE TRAINING SCHOOLS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 143B of the General Statutes is hereby amended to add Part 20 to Article 3 to read as follows:

"Part 20. Technical Advisory Committee on Delinquency Prevention and Youth Services.

"§ 143B-204. *Legislative intent.*—The General Assembly hereby declares its intent to reduce the number of children committed by the courts for delinquency to institutions operated by the Division of Youth Development, Department of Human Resources or other State agencies. The primary intent of this act is to provide a comprehensive plan for the development of community-based alternatives to training school commitment so that 'status offenders' (defined by this act to include 'those juveniles guilty of offenses which would not be violations of the law if committed by an adult) may be eliminated from the Youth Development institutions of this State. Additionally it is the intent of this legislation to provide noninstitutional disposition options in any case before the juvenile court where such disposition is deemed to be in the best interest of the child and the community.

The policy and intent of the General Assembly in delinquency prevention and community-based services can be summarized as follows:

(1) Such programs should be planned and organized at the community level within the State, and such planning efforts should include appropriate representation from local government, local agencies serving families and children (both public and private), local business leaders, citizens with an interest in youth problems, youth representatives, and others as may be appropriate in a particular community. The role of the State should be to provide technical assistance, access to funding, program information, and to assist local leadership in appropriate planning.

(2) When a child is adjudicated to be within the juvenile jurisdiction of the district court such child should be carefully evaluated through the available community-level resources (including mental health, social services, public health and other available medical services, public schools, and others as appropriate) prior to the juvenile hearing dealing with disposition so that the disposition of the court may be made with an understanding of the needs of the child and after consideration of the resources available to meet these needs.

(3) It is contrary to the policy of the State for a court to separate a child from his own family or commit a child to an institution or training school without a careful evaluation of the needs of the child.

(4) The General Assembly finds that State and local government should be responsive to the need for community-based services which would provide a viable alternative to commitment to an institution or training school. The General Assembly intends that State government should be responsive to this need through the Department of Human Resources by helping public and private local groups to plan, develop and fund community-based programs, both residential and nonresidential. It is recognized that such efforts will require the cooperation of several major State departments in addition to Human Resources, such as Public Instruction, Administrative Office of the Courts, and the Governor's Committee on Law and Order.

(5) It is the intent of the General Assembly that the Secretary of the Department of Human Resources in conjunction with the Technical Advisory Committee described in Section 143B-206 of this bill develop a funding mechanism that will provide State support for programs that meet the standards as developed under the provisions of this act.

"§ 143B-205. *Duties of Secretary of Human Resources.*—It shall be the duty of the Secretary of Human Resources to arrange for the appropriate unit or units of the Department of Human Resources to implement Part 20, Article 3, of this Chapter as follows:

(1) To designate the appropriate unit of the Department of Human Resources to be responsible for coordination of State-level services in relation to delinquency prevention and youth services so that any citizen may go to one place in State government to receive services or access to services;

(2) To provide staff services to the Technical Advisory Committee on Delinquency Prevention and Youth Services created by Part 20;

(3) To arrange appropriate coordination and planning within the child-serving agencies of the Department of Human Resources and promote interdepartmental coordination by regular interaction with the Technical Advisory Committee;

(4) To assist local governments and private service agencies in the development of community-based programs, and to provide information on the availability of potential funding sources and whatever assistance may be requested in making application for needed funding;

(5) To approve yearly program evaluations and to make recommendations to the General Assembly concerning continuation funding that might be supported by that evaluation;

(6) To approve program evaluation standards by which all programs developed under the provisions of this act may be objectively evaluated.

Such standards as may be developed for the purpose of program evaluation shall be in addition to any current standards as may be applicable under the existing authority of the Social Services Commission and the Department of Human Resources.

Minimum operating standards as well as program evaluation standards as may be needed for new program models designed to fulfill the intent of this act, may be developed at the discretion of the Secretary either by the Social Services Commission or the Technical Advisory Committee.

(7) To develop in coordination with the Technical Advisory Committee as described in Section 143B-206 of this act a formula for funding on a matching basis community-based services as provided for in this act. This formula shall be based upon the county's or counties' relative ability to fund community-based programs for juveniles.

Local governments receiving State matching funds for programs under the provisions of this act must maintain the same overall level of effort that existed at the time of the filing of the County Assessment of Youth Needs with the Department of Human Resources as provided in Section 143B-209 of this act.

"§ 143B-206. *Technical Advisory Committee on Delinquency Prevention and Youth Services.*—There is hereby created the Technical Advisory Committee on Delinquency Prevention and Youth Services to advise and assist the Secretary of Human Resources in the development of delinquency prevention programs and community-based services for youth, both residential and nonresidential, which shall have the following duties:

(1) To provide yearly program evaluation of the effectiveness of delinquency prevention programs and community-based services developed or supported under provisions of this act, and, based on the findings of that evaluation, to make recommendations to the Secretary of the Department of Human Resources on the yearly budget requests for continuation funding;

(2) To advise and assist the Secretary of Human Resources in the development of a program which would coordinate the resources of State government within the appropriate departments to provide technical assistance to local areas within the State to assist them in planning delinquency prevention programs and community-based services for youth, including but not limited to the following: study local youth needs; gather data on children within the juvenile jurisdiction of the district court; evaluate resources for providing services or care to these children; provide information about various program models which might be appropriate in relation to the needs of youth; help in planning for evaluation; and other assistance as may be appropriate;

(3) To develop and recommend to the Secretary of Human Resources the program evaluation standards for delinquency prevention programs and community-based programs, both residential and nonresidential;

(4) To advise and assist the Secretary of Human Resources in encouraging the development of delinquency prevention programs and community-based services by private groups so that such programs can be responsive to local needs, so that local leadership and private groups can be responsible for their programs, and so that programs which meet State standards can be assisted by State and federal funding and so that available private funds can be appropriately utilized along with available State and federal funds;

(5) To advise and assist the Secretary of Human Resources in development of programs which have a plan for evaluation from the beginning so that successful program models can be replicated as appropriate;

(6) To advise and assist the Secretary of Human Resources in the development of delinquency prevention programs and community-based services under public auspices where there is no local private leadership.

"§ 143B-207. *Composition of Technical Advisory Committee on Delinquency Prevention and Youth Services.*—The Committee shall consist of 14 members who shall be appointed as follows:

(1) Two members shall be appointed by the Governor who shall be citizens who are parents and have some knowledge about juvenile delinquency, its prevention, and community-based services;

(2) Four members shall be appointed by the General Assembly, two by the Speaker of the House of Representatives and two by the President of the Senate, who shall be members of the General Assembly with an interest in youth problems;

(3) Two members shall be appointed by the Secretary of Human Resources who shall be personnel employed by the Department of Human Resources with knowledge about delinquency prevention programs, community-based services, child care, and licensing;

(4) Two members shall be appointed by the Director of the Administrative Office of the Courts, including at least one chief court counselor from the local level;

(5) Two members shall be appointed by the Superintendent of Public Instruction, one of whom shall be a person from a local public school administrative unit with knowledge about school attendance problems, learning problems of children, alternative school programs, and other school programs to provide individualized instruction;

(6) Two members shall be appointed by the Chairman of the Governor's Committee on Law and Order who shall be members of said Committee who are knowledgeable about juvenile delinquency and federal funds available for juvenile services.

All appointments shall be for a term of two years, to begin on or before July 1, 1975. Any vacancy arising for any cause other than the expiration of the term shall be filled by the original appointing authority for the unexpired term. The Committee should include representation of racial minorities and women. The Committee shall elect its chairman and other officers as may be needed from among the membership of the Committee. Members of the Technical Advisory Committee may receive travel and per diem expenses as authorized for members of State committees under G.S. 138-5.

"§ 143B-208. *Purchase of care or services from programs meeting State standards.*—The Department of Human Resources and any other appropriate State or local agency are hereby authorized to purchase care or services from public or private agencies providing delinquency prevention programs or community-based services, provided the program meets the State standards as authorized by G.S. 143B-205. As institutional populations are reduced, the Department of Human Resources may divert State funds appropriated for institutional programs to purchase such services, pursuant to the provisions of the Executive Budget Act.

The Technical Advisory Committee shall prepare an annual report on the progress of the community-based programs of this State which shall include the most current institutional populations of children being served by the various departments of State government which shall include comparative costs of all child serving agencies. Such report shall be submitted to the Governor, the General Assembly and the various State departments providing services to children.

"§ 143B-209. *County assessment of youth needs.*—The board of county commissioners of each participating county shall conduct or arrange for a study of youth needs in the county, giving particular attention to the need for

delinquency prevention programs and community-based services (residential or nonresidential) which would provide an alternative to commitment to training school. The board of county commissioners may delegate the responsibility to any appropriate board or department of county government, or it may contract with an appropriate private agency or group for the study. Adjoining counties may cooperate in conducting such study on a regional basis, utilizing appropriate public or private resources.

The board of county commissioners of any county may request technical assistance from the Secretary of Human Resources in conducting such study. Each participating county shall develop a study plan for submission to the Secretary of Human Resources by January 1, 1976. Each participating county shall file a report of preliminary findings from such study to the Secretary of Human Resources by January 1, 1977, and its full report by January 1, 1978. Each participating county shall plan for a continuing assessment of youth needs in the county or region with annual reports to the Secretary of Human Resources.

"§ 143B-210. *Prevent the commitment of noncriminal juvenile offenders to juvenile institutions for delinquents.*—To fully implement the legislative intent and purpose of this act, G.S. 7A-278(2) is rewritten to omit the words 'or a child who has violated the conditions of his probation under this Article' so that it reads as follows:

(2) 'Delinquent child' includes any child who has committed any criminal offense under State law or under an ordinance of local government, including violations of the motor vehicle laws."

Sec. 2. There is hereby appropriated from the General Fund of the State the sum of fifteen thousand dollars ($15,000) for the 1975-1976 fiscal year and fifteen thousand dollars ($15,000) for the 1776-1977 fiscal year to the Department of Human Resources for the administrative cost of the community-based services program.

Sec. 3. This act shall become effective upon ratification, except that G.S. 143B-210 shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 562 CHAPTER 930

AN ACT APPROPRIATING FUNDS TO THE DEPARTMENT OF CULTURAL RESOURCES FOR THE USE OF HISTORIC OLD SALEM IN PRESERVING, RESTORING AND REPAIRING HISTORIC BUILDINGS AND SITES.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated, in addition to the appropriation recommended by the Advisory Budget Commission, from the General Fund to the Department of Cultural Resources for the use of historic Old Salem, the sum of ten thousand dollars ($10,000) for the fiscal year 1975-76 and ten thousand dollars ($10,000) for the fiscal year 1976-77, to be used for the preservation, restoration and repair of historic buildings and sites.

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 520 **CHAPTER 931**

AN ACT APPROPRIATING FUNDS ON A MATCHING BASIS TO THE DEPARTMENT OF HUMAN RESOURCES TO ENABLE IT TO DEVELOP ONE OR MORE MODEL HOMES PROVIDING JUVENILE DETENTION SERVICES ON A REGIONAL BASIS.

Whereas, the 1974 Session of the 1973 General Assembly enacted legislation to make juvenile detention care available on a statewide basis including rural areas, which legislation is codified as Article 6 of Chapter 134 of the General Statutes; and

Whereas, this legislation makes the Department of Human Resources responsible for the development and administration of regional detention homes to serve rural areas and G.S. 134-39 authorizes said department to develop one or more pilot programs to demonstrate that quality juvenile detention care which meets State standards may be offered on a regional basis which would meet the needs of the cooperating counties in the region; and

Whereas, there is no existing regional juvenile detention home providing quality detention care so that it would be beneficial to the State to establish a model detention program to serve as a model for planning and operation of a quality program; and

Whereas, a large number of children continue to be confined in local jails in North Carolina, demonstrating the need for expansion of juvenile detention resources on a regional basis; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund of the State of North Carolina to the North Carolina Department of Administration the sum of one hundred fifty thousand dollars ($150,000) for the fiscal year 1976-77 for the purpose of enabling the Department of Human Resources to plan and award contracts with one or more units of local governments for the construction of one or more model homes to provide regional juvenile detention care, and which juvenile detention centers are to serve as models for development of regional detention resources within the State.

Sec. 2. The capital funds appropriated herein are to be administered on a matching basis by the North Carolina Department of Human Resources according to the following criteria:

(1) The funds shall be invested in one or more model juvenile detention programs in a region or regions which lack a juvenile detention home, after evaluation of the need for such services in various parts of the State.

(2) To obtain an allocation of the funds appropriated in Section 1, the local unit of government shall match each dollar of State funds with a dollar of regional or local funds raised from public or private sources; provided, however, the value of land, services, equipment and buildings may be included in determining the amount of local amount of matching money, and shall be subject to the agreement of the Department of Administration.

(3) In locating the one or more model juvenile detention homes, the department shall consider the need of the region for detention services, the capacity of the counties to plan together to develop the detention home, the extent of regional interest in such a resource, and other variables that would bring the greatest return for the State funds invested.

(4) The Department of Human Resources shall consider any plans and proposed contracts between one or more counties within a region and the Department of Human Resources shall prepare recommendations of the plans and contract which shall be submitted to the Advisory Budget Commission for approval. No such contract shall provide for State expenditures beyond the appropriations made by the General Assembly.

Sec. 3. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 639 CHAPTER 932

AN ACT TO APPROPRIATE FUNDS FOR THE SUPPORT OF CERTAIN MENTALLY RETARDED AND PHYSICALLY DISABLED INDIVIDUALS IN SHELTERED WORKSHOPS.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated to the North Carolina Department of Mental Health, out of the General Fund of the State, twenty thousand dollars ($20,000) for the fiscal year July 1, 1975, through June 30, 1976, and one hundred twenty thousand dollars ($120,000) for the fiscal year July 1, 1976, through June 30, 1977, to be used as grants-in-aid for the support of mentally retarded and physically disabled persons in sheltered workshops in this State. These support payments shall be governed by and administered in accordance with the provisions of G.S. 122-71.4 and G.S. 122-71.5, as the same appear in the 1971 Cumulative Supplement to Volume 3B of the General Statutes. However, the monthly support per person shall not exceed a maximum of one hundred forty dollars ($140.00) with each of the monthly support payments being funded with seventy-five percent (75%) federal and/or State funds and twenty-five percent (25%) local funds.

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 655 CHAPTER 933

AN ACT TO AMEND CHAPTER 1247 OF THE 1973 SESSION LAWS WITH RESPECT TO THE RENOVATION OF THE WRIGHT BUILDING AT EAST CAROLINA UNIVERSITY ON A WHOLLY SELF-LIQUIDATING BASIS.

The General Assembly of North Carolina enacts:

Section 1. The purpose of this act is to amend Chapter 1247 of the 1973 Session Laws of North Carolina with respect to the renovation of the Wright Building for East Carolina University by increasing the authorization by an amount not to exceed one hundred seventy-five thousand dollars ($175,000) on a self-liquidating basis.

Sec. 2. Section 2 of said Chapter 1247 of the 1973 Sessions Laws (Second Session, 1974) is amended by deleting the words and figures "three hundred twenty-five thousand dollars ($325,000)" and substituting therefor the words and figures "five hundred thousand dollars ($500,000)".

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 657 CHAPTER 934

AN ACT TO AMEND CHAPTER 523 OF THE 1973 SESSION LAWS WITH RESPECT TO A WHOLLY SELF-LIQUIDATING PROJECT AT THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL, HEALTH AFFAIRS CONTINUING EDUCATION CENTER.

The General Assembly of North Carolina enacts:

Section 1. The purpose of this act is to amend Chapter 523 of the 1973 Session Laws of North Carolina with respect to the Health Affairs Continuing Education Center at The University of North Carolina at Chapel Hill by increasing the authorization by three million one hundred ninety thousand dollars ($3,190,000) on a self-liquidating basis.

Sec. 2. Section 4 of said Chapter 523 of the 1973 Session Laws under the institutional subhead as indicated and affecting only the project as listed in this act is amended to read as follows:

University of North Carolina at Chapel Hill - Health Affairs

2. Continuing Education Center		
(108,000 square feet)	$5,400,000	
Fixed Equipment	750,000	
Movable Equipment	350,000	
Parking Deck - 250 Cars	1,000,000	
Total Project	$7,500,000	
Less Self-Liquidating	7,500,000	-0-

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 658 CHAPTER 935

AN ACT TO AMEND CHAPTER 1240 OF THE 1971 SESSION LAWS WITH RESPECT TO A CAPITAL IMPROVEMENTS PROJECT AT NORTH CAROLINA AGRICULTURAL AND TECHNICAL STATE UNIVERSITY.

The General Assembly of North Carolina enacts:

Section 1. The purpose of this act is to amend Chapter 1240 of the 1971 Session Laws of North Carolina with respect to a Physical and Health Education Building for North Carolina Agricultural and Technical State University by increasing the authorization by an amount not to exceed one million dollars ($1,000,000) on a self-liquidating basis.

Sec. 2. Section 2 of said Chapter 1240 of the 1971 Session Laws under the institutional subheading, as indicated and affecting only the project as listed in this act, is amended to read as follows:

North Carolina Agricultural & Technical State University	
Physical & Health Education Building	$4,125,000
Fixed Equipment	75,000
Movable Equipment	200,000

Subtotal	$4,400,000
Less Self-Liquidating	1,000,000
Total	$3,400,000

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 662 CHAPTER 936

AN ACT TO AMEND CHAPTER 523 OF THE 1973 SESSION LAWS WITH RESPECT TO A WHOLLY SELF-LIQUIDATING PROJECT FOR THE RENOVATION OF TWO RESIDENCE HALLS FOR NORTH CAROLINA CENTRAL UNIVERSITY.

The General Assembly of North Carolina enacts:

Section 1. The purpose of this act is to amend Chapter 523 of the 1973 Session Laws of North Carolina with respect to the renovation of two residence halls for North Carolina Central University by increasing the authorization by an amount not to exceed seven hundred thousand dollars ($700,000) on a self-liquidating basis.

Sec. 2. Section 4 of said Chapter 523 of the 1973 Session Laws under the institutional subhead as indicated and affecting only the project as listed in this act is amended to read as follows:

North Carolina Central University

2. Renovate Two Residence Halls			
McLean Residence Hall			
Renovation	$ 590,000		
Movable Equipment	10,000	$ 600,000	
Annie Day Shepard Residence Hall			
Renovation	$ 685,000		
Movable Equipment	15,000		
		700,000	
Total Project		$1,300,000	
Less Self-Liquidating		1,300,000	-0-

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 665 CHAPTER 937

AN ACT TO INCREASE STATE AID TO COUNTY PUBLIC LIBRARIES.

Whereas, the Division of State Library of the North Carolina Department of Cultural Resources is responsible for the distribution of State aid and services to county and regional public libraries; and

Whereas, the Division of State Library of the North Carolina Department of Cultural Resources provides a valuable service to the public libraries of this State in the purchasing, cataloging and processing of books; and

Whereas, such services would be far too costly in time and money to handle at the local level, particularly in smaller libraries; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the North Carolina Department of Cultural Resources the sum of forty-five thousand seven hundred sixty-eight dollars ($45,768) for the fiscal year 1975-76 and forty-seven thousand eight hundred thirteen dollars ($47,813) for the fiscal year 1976-77 to be used in providing wages and salaries necessary for the support of the processing center for the public libraries of this State, which will aid the public libraries in the purchasing, cataloging, and processing of books.

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 666 CHAPTER 938

AN ACT TO EXTEND TO "MOTOR VEHICLE PROCESS SERVERS" FIVE PERCENT (5%) SALARY INCREASES GRANTED TO STATE HIGHWAY PATROLMEN.

Whereas, Motor Vehicle Process Servers who are still active members of the State Highway Patrol were not granted the five percent (5%) salary adjustment granted to other members of the State Highway Patrol by the 1973 General Assembly; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby granted to those members of the State Highway Patrol classified as "Motor Vehicle Process Servers" or "Motor Vehicle Process Server Supervisors" a five percent (5%) salary adjustment, which salary adjustment shall be retroactive to the effective date of the additional five percent (5%) salary adjustment granted by the 1973 (Second Session 1974) General Assembly to State Highway patrolmen, these members of the State Highway Patrol not having been included in such adjustment by action of the Office of State Personnel. The salary adjustments provided by this act shall be paid from the Salary Adjustment Fund of the Department of Transportation.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 675 CHAPTER 939

AN ACT TO MAKE THE HALIFAX COUNTY TECHNICAL INSTITUTE A COMPREHENSIVE COMMUNITY COLLEGE.

The General Assembly of North Carolina enacts:

Section 1. The Halifax County Technical Institute, an institutional member of the North Carolina Community College System, is hereby created a comprehensive community college to be known as Halifax Community College, which institution shall continue to be subject to the provisions of Chapter 115A of the General Statutes of North Carolina. The State Board of Education and the Board of Trustees of Halifax Community College shall provide for students enrolling in Halifax Community College such programs of instruction in occupational and academic education and training as are authorized or required by provisions of Chapter 115A for a community college as therein defined.

Sec. 2. There is hereby appropriated to the State Board of Education, Department of Community Colleges, from the General Fund of the State, in addition to all other appropriations which may be made by the 1975 General Assembly therefrom, the sum of one hundred thousand dollars ($100,000) for the year commencing July 1, 1976, of the 1975-77 biennium, which appropriations shall be placed in the Operations Budget of the Department of Community Colleges for distribution, together with any other funds which may be made available, to Halifax Community College in accordance with provisions of the funding formulas designed and maintained by the State Board of Education pursuant to G.S. 115A-5.

Sec. 3. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 4. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 680 CHAPTER 940

AN ACT TO APPROPRIATE FUNDS TO ASSIST IN THE RESEARCH, RELOCATION, RESTORATION, AND ACQUISITION OF LAND FOR THE WILLIAM KING HOUSE BY HISTORIC HOPE FOUNDATION, INCORPORATED, IN BERTIE COUNTY.

Whereas, the King House is among the State's very few pre-Revolutionary dwellings that survive essentially unchanged since construction to provide present-day citizens with knowledge of the craftmanship, living habits, and conditions of life in North Carolina before the Revolution; and

Whereas, the early building date (1763) and first owners (William and Elizabeth King) of the house are definitely known, making the building uniquely important in dating and understanding of other eighteenth century houses throughout the State; and

Whereas, the building is of great architectural significance because of the exceptionally complete survival of such rare and early features as its gambrel roof, brick ends, T-stack chimneys, and fine Georgian woodwork including mantels, wainscots, cupboards, and stairs; and

Whereas, Historic Hope Foundation, Incorporated, wishes to expand its preservation efforts by restoring and opening to the people of North Carolina this important structure; and

Whereas, Historic Hope Foundation seeks a State appropriation to assist with historical and archaeological research, land acquisition, architectural planning, and moving the King House to land adjacent to Hope Plantation, and the commencement of foundation, and partial exterior restoration work; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, for assistance in the research, architectural planning, and land acquisition for the William King House for the 1975-76 fiscal year the sum of twelve thousand five hundred dollars ($12,500), provided a like amount is raised by the Historic Hope Foundation, Incorporated after July 1, 1975; and for the 1976-77 fiscal year for the relocation and partial exterior restoration of the William King

House the sum of twelve thousand five hundred dollars ($12,500), provided a like amount is raised by the Historic Hope Foundation, Incorporated after July 1, 1975.

Sec. 2. Funds appropriated in this act shall be expended only in accordance with Sections 121-11 and 143-31.2 of the General Statutes.

Sec. 3. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 741 CHAPTER 941

AN ACT TO APPROPRIATE FUNDS TO THE STATE BOARD OF EDUCATION TO BE ALLOCATED TO LOCAL BOARDS OF EDUCATION TO DEFRAY A SHARE OF THE COST OF OPERATING PUBLIC SCHOOL PLANTS.

Whereas, the costs of plant operation have increased at an accelerating rate for the past several years; and

Whereas, the percent of State support for this purpose has declined steadily during the same period; and

Whereas, current appropriations of State funds are totally inadequate in view of the major burden placed on local resources; and

Whereas, the costs of plant operation have risen despite conservation efforts in North Carolina schools which have resulted in substantial energy savings; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the State Board of Education as a part of the Public School Fund the sum of eight hundred thousand dollars ($800,000) for the 1975-76 fiscal year and the sum of one million six hundred thousand dollars ($1,600,000) for the 1976-77 fiscal year for defraying cost incurred in operating school plants in the public school system. These funds shall be allotted to local boards of education by the State Board of Education for Code 633 - Water, Light and Power.

Sec. 2. The initial allocation of these funds each year of the biennium shall be based on formulas determined by the State Board of Education.

Sec. 3. The State Board of Education may authorize transfer within operation of plant codes upon the request of local school boards.

Sec. 4. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 755 **CHAPTER 942**

AN ACT TO APPROPRIATE FUNDS TO ASSIST WITH THE PAYMENT OF INDEBTEDNESS INCURRED IN THE RESTORATION OF THE BOGGAN-HAMMOND HOUSE IN ANSON COUNTY.

Whereas, the Boggan-Hammond House was originally constructed in two wings, the older wing, constructed in 1783, constituting the oldest structure remaining in Wadesboro; and the later, Alexander Little wing, constructed in 1820; and

Whereas, the restoration has been completed, the two sections furnished and opened to the public; and

Whereas, the two structures have served for nearly five years as educational centers of great importance for people of this State and Anson County; and

Whereas, in 1969 the General Assembly appropriated the sum of twenty thousand dollars ($20,000) to assist with the restoration of these structures; and

Whereas, the Anson County Historical Society, Incorporated, borrowed the sum of fifty thousand dollars ($50,000) to complete the restoration of these structures; and

Whereas, this historic property is now endangered from the inability of the Anson County Historical Society, Incorporated, to raise sufficient funds to terminate their indebtedness; and

Whereas, the Anson County Historical Society, Incorporated, seeks to supplement their locally raised funds with a State appropriation; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Department of Cultural Resources to be used by the Division of Archives and History for assistance with the payment of indebtedness incurred in the restoration of the Boggan-Hammond House in Anson County the sum of six thousand dollars ($6,000) for fiscal year 1975-76, provided a like amount is raised by the Anson County Historical Society, Incorporated after July 1, 1975; and the sum of six thousand dollars ($6,000) for fiscal year 1976-77, provided a like amount is raised by the Anson County Historical Society, Incorporated, July 1, 1976.

Sec. 2. Funds appropriated in this act shall be expended only in accordance with Sections 121-11 and 143-31.2 of the General Statutes.

Sec. 3. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 764 **CHAPTER 943**

AN ACT TO APPROPRIATE FUNDS FOR MOUNTAIN GATEWAY MUSEUM.

Whereas, with funds raised from private sources and supplemented by appropriations of the General Assembly, the Mountain Gateway Museum, in Old Fort, McDowell County, has been open to the visiting public for four years now, and 10,940 people have visited including several thousand school children.

Whereas, from a grant from the emergency and contingency fund, an old log house has been moved, refurbished, and is now ready to house part of the Zieman collection that was given to the State of North Carolina several years ago and is now on loan to the Mountain Gateway Museum.

Whereas, additional funds are needed for exhibits in the log cabin, completion of an educational movie already begun, changing exhibits in the museum, and the moving and repairing of an additional log house to house the rest of the Zieman collection; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated to the State Department of Cultural Resources, Archives and History Division, to be expended for and in connection with the Mountain Gateway Museum, for the fiscal year 1976-77, the following sums:

Exhibits for log cabin	$ 1,500
Completion of educational movie	5,000
Changing exhibits in museum	1,500
Moving and repairing additional log cabin	12,000
Total appropriation	$20,000

Sec. 2. Funds appropriated in this act shall be expended only in accordance with G.S. 121-11 and G.S. 143-31.2.

Sec. 3. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 770 **CHAPTER 944**

AN ACT TO PROVIDE FOR THE EXPANSION OF THE ROY HAMPTON MUSEUM IN THE CITY OF BEAUFORT INTO A MARINER'S MUSEUM AND TO PROVIDE FOR ITS PRESERVATION AND DISPLAY.

Whereas, the Roy Hampton Museum in the City of Beaufort is without trained personnel who are qualified to properly develop, preserve, and display said Museum; and

Whereas, without a professional staff, the Roy Hampton Museum cannot adequately serve the schools and the people of the coastal area properly, or serve a valuable public relations function in displaying North Carolina's maritime heritage to out-of-state visitors; and

Whereas, with the proper staff, the Roy Hampton Museum could function properly as a branch of the North Carolina State Museum allowing the North Carolina State Museum to expand its educational and exhibits program to the coastal region; and

Whereas, the resources needed for the development of such a Museum exceed presently available resources in terms of manpower, equipment and operating funds of the North Carolina State Museum; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the North Carolina Department of Agriculture the sum of twenty-five thousand dollars ($25,000) for the 1975-76 fiscal year and the sum of twenty-five thousand dollars ($25,000) for the 1976-77 fiscal year for the staffing and operation of the Roy Hampton Museum.

Sec. 2. The Department of Agriculture shall handle and coordinate the administration and expenditure of all funds appropriated by this act.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 778 CHAPTER 945

AN ACT TO ESTABLISH A PUBLIC HEALTH RESIDENCY PROGRAM WITHIN THE NORTH CAROLINA DEPARTMENT OF HUMAN RESOURCES.

Whereas, there is an extreme shortage of and a continuously decreasing number of practicing public health physicians and dentists in North Carolina; and

Whereas, the State of North Carolina urgently needs the services of physicians and dentists well trained in the field of public health for the continued upgrading of public health services to her citizens, and the promotion and protection of the public health; and

Whereas, the State of North Carolina is without a program providing residency training in the specialty of public health practices; and

Whereas, the physical facilities and manpower resources for such training are available through the North Carolina Department of Human Resources and the local health departments in the State; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Chapter 130 of the General Statutes is hereby amended by adding the following section thereto:

"§ 130-9.1. *Residencies in public health.*—There shall be established within the North Carolina Department of Human Resources a residency program designed to attract physicians and dentists into the field of public health and to train them in the specialty of public health practice. The program shall include practical experience in public health principles and practices, such experience to be gained through exposure to specific work situations in the Department of Human Resources and local health departments in the State."

Sec. 2. There is hereby appropriated from the General Fund of the State to the North Carolina Department of Human Resources a sum of fifteen thousand dollars ($15,000) for fiscal year 1975-76 and a sum of twenty-five thousand dollars ($25,000) for fiscal year 1976-77 for the purpose of establishing a residency program in public health practice. These funds are in addition to all other funds appropriated to the department.

Sec. 3. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 779 CHAPTER 946

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF HUMAN RESOURCES TO SUPPLEMENT THE PREVENTIVE DENTAL HEALTH PROGRAM AND SUPPORTIVE SERVICES.

Whereas, dental disease is the most prevalent health problem among school children, affecting ninety-five percent (95%); and

Whereas, the average child will experience 15 decayed teeth during school years and sixty-five percent (65%) of the children do not receive professional dental care; and

Whereas, dental disease may present barriers to effective learning; and

Whereas, the 10-year plan for preventive dentistry was presented to the General Assembly during the 1973 Session and was funded and the additional staff provided by the appropriation have rendered dental services to 18 new counties during the 1973-75 biennium as follows: Dental inspections, 94,731; referred to private practitioners, 38,784; preventive services, 78,707; educational services, 166,243; rural school water systems fluoridated, 45; and

Whereas, the Dental Health Section, Division of Health Services, Department of Human Resources, is operating under the 10-year plan, which was approved by the North Carolina Dental Society in 1973; and

Whereas, if this plan is followed and funds appropriated as called for in the 10-year plan, the amount of dental disease will be significantly reduced by 1983; and

Whereas, the increased funds would help to keep the disease reducing plan on schedule; and

Whereas, the funds would permit employment of additional dental hygienists; and

Whereas, the funds would permit the employment of technical workers; and

Whereas, these added services accruing would involve dental inspections and referral of school children, community fluoridation, rural school water fluoridation, fluoride supplements such as fluoride mouth rinse programs for school children, and a strong preventive dental health education program in schools and communities; and

Whereas, the vigorous effort to combat dental caries and periodontal disease, which causes loss of teeth, will decrease the cost of dental care to government and to individuals; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund of the State to the Department of Human Resources, in addition to all other appropriated funds, the sum of forty-five thousand dollars ($45,000) for the 1975-1976 fiscal year and one hundred forty-five thousand dollars ($145,000) to continue in the implementation of the 10-year plan of the Dental Health Section, Division of Health Services, Department of Human Resources.

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 794 **CHAPTER 947**

AN ACT TO APPROPRIATE FUNDS FOR COMPLETION OF THE RESTORATION OF THE BURWELL SCHOOL AND DEPENDENCIES IN HILLSBOROUGH, ORANGE COUNTY.

Whereas, the Burwell School building in Hillsborough was constructed about 1821 and was subsequently enlarged by John Berry, master builder, and used as one of the best known private schools in the State; and

Whereas, the building has played a significant role in the history of Hillsborough, a town rich in colonial and State history; and

Whereas, the restoration of the Burwell School building for public purposes has been undertaken by the Historic Hillsborough Commission; and

Whereas, the Historic Hillsborough Commission, with the assistance of the State, federal, county, and municipal governments, private foundations, and citizens of the area, has expended approximately one hundred ten thousand dollars ($110,000) in the acquisition and restoration of this historic school for the education and enjoyment of our people; and

Whereas, the restoration can be completed and the buildings opened to the public in 1976, provided additional funds be made available; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Division of Archives and History of the Department of Cultural Resources the sum of five thousand dollars ($5,000) for the fiscal year 1975-76 and the sum of five thousand dollars ($5,000) for the fiscal year 1976-77 for completing the restoration of the Burwell School and dependencies in Hillsborough, provided a like amount is raised each fiscal year by the Historic Hillsborough Commission after July 1, 1975.

Sec. 2. Funds appropriated in this act shall be expended only in accordance with G.S. 121-11 and G.S. 143-31.2.

Sec. 3. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 804 **CHAPTER 948**

AN ACT TO APPROPRIATE FUNDS TO THE NORTH CAROLINA DEPARTMENT OF AGRICULTURE FOR USE IN BEEF CATTLE FEEDING RESEARCH AT THE UPPER MOUNTAIN RESEARCH STATION.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the North Carolina Department of Agriculture, in addition to all other appropriations, the sum of twenty-five thousand dollars ($25,000) for the fiscal year 1975-76. Said sum shall be used by the Department of Agriculture, on a force account basis, for the construction of a beef cattle barn silo and feeding system at the Upper Mountain Research Station, Laurel Springs, North Carolina.

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 819

CHAPTER 949

AN ACT TO PROVIDE FOR THE EMPLOYMENT OF AN AGRICULTURAL EXTENSION AREA SWINE SPECIALIST TO WORK IN SOUTHEASTERN NORTH CAROLINA.

Whereas, the 10 county area including Bladen, Brunswick, Columbus, Cumberland, Duplin, Harnett, Hoke, Robeson, Sampson and Scotland is one of the major swine producing areas of the State with an annual income in 1973 of sixty-eight million dollars ($68,000,000) which represents twenty-four percent (24%) of the total income from swine in North Carolina;

Whereas, this area has the greatest potential for expansion of pork production of any area in North Carolina;

Whereas, the development of the feeder pig industry has contributed to the development of large specialized finishing units of this area;

Whereas, the feeder pig industry offers a great potential for increasing income on the small farms of the area;

Whereas, the marketing capability, essential for a growth industry such as producing pork for human consumption, is available in the area and continues to become more expanded and competitive;

Whereas, the topography and soil type are excellent for continued growth of the swine industry of this area;

Whereas, the human population density of this agricultural area is conducive to sound and stable growth of the pork industry;

Whereas, the resources needed to coordinate and give leadership to an orderly growth pattern to the pork industry across this area are in excess of resources presently available for these purposes to the North Carolina Agricultural Extension Service; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund of the State of North Carolina, in addition to all other appropriations, to the North Carolina Agricultural Extension Service (N.C. Budget Code 18147) the sum of thirty-five thousand dollars ($35,000) for the fiscal year beginning July 1, 1975, and ending June 30, 1976, with this sum to become a part of the continuing or "Base Budget" of this State agency for the general purposes set forth in the preamble of this act.

Sec. 2. The above-named agency shall handle and coordinate the administration and expenditure of all funds appropriated by this action and for the purposes herein designated shall be accounted for and reported to the fiscal and financial system of the agency to which the appropriation is made as herein set forth.

Sec. 3. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 825 **CHAPTER 950**

AN ACT TO APPROPRIATE FUNDS AS MATCHING FUNDS TO ASSIST IN FACILITATING THE CAROLINA CLOGGERS IN ATTENDING THE INTERNATIONAL FOLK DANCE FESTIVAL IN ENGLAND.

Whereas, buck dancing, a form of clogging, is indigenous to North Carolina; and

Whereas, the dance form of clogging in its original form was brought to the North Carolina mountains by Scotch-Irish settlers; and

Whereas, the fundamentals of clogging can help determine the physical development of the dancer through the requirements of accuracy, strength, control, balance, and awareness of the dancer's self; and

Whereas, the Carolina Cloggers of North Carolina have been touring inside and outside the boundaries of the State for some 15 years; and

Whereas, this group and its string band were the first and only group of its kind to receive an invitation to the International Folk Dance Festival in England two years ago; and

Whereas, the Carolina Cloggers have been honored with a second invitation to attend the Festival again this summer; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Department of Cultural Resources the amount of ten thousand dollars ($10,000) for the 1975-76 fiscal year to be administered by the Roberson Memorial Y.M.C.A. in Canton, North Carolina, to facilitate the Carolina Cloggers in representing North Carolina and the United States at the International Folk Dance Festival, to be matched in the amount of ten thousand dollars ($10,000) raised by the Carolina Cloggers.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 838 **CHAPTER 951**

AN ACT TO APPROPRIATE FUNDS TO ASSIST IN COMPLETING THE RESTORATION OF THE WRIGHT TAVERN IN ROCKINGHAM COUNTY.

Whereas, the Wright Tavern in Wentworth, Rockingham County, has been described as the finest surviving example of a two-story frame "Dog-Run" building; and

Whereas, the building has been associated with some of the State's most outstanding statesmen of the nineteenth century, among them Thomas Settle, Thomas Ruffin, John M. Morehead, David S. Reid, Archibald D. Murphey, Alfred M. Scales, and Robert B. Glenn; and

Whereas, with funds raised from private sources, supplemented by funds from the State, federal, and county governments, the Rockingham County Historical Society, Incorporated, has expended approximately one hundred fifty thousand dollars ($150,000) in the acquisition and restoration of this historic place for the education and enjoyment of our people; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, for assistance in completing the restoration of the Wright Tavern in Wentworth, Rockingham County, for the 1976-77 fiscal year the sum of fifteen thousand dollars ($15,000), provided a like amount is raised by the Rockingham County Historical Society, Incorporated, after July 1, 1976.

Sec. 2. Funds appropriated in this act shall be expended only in accordance with Sections 121-11 and 143-31.2 of the General Statutes.

Sec. 3. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 840 CHAPTER 952

AN ACT TO APPROPRIATE FUNDS TO ASSIST WITH THE HISTORICAL AND ARCHAEOLOGICAL INVESTIGATION OF THE DAVID CALDWELL LOG COLLEGE SITE IN GUILFORD COUNTY.

Whereas, The Reverend David Caldwell, D.D., was a great religious, educational, and political leader in the revolutionary era of North Carolina history; and

Whereas, David Caldwell did establish and maintain for many years in Guilford County an academy known as the "log college" in which numerous future leaders of this State including Governor John Motley Morehead and four governors of other states received their training; and

Whereas, a portion of the estate of David Caldwell, now located within the corporate limits of the city of Greensboro, has been purchased by the David Caldwell Log College Corporation, which with private funds has developed plans for a David Caldwell Park; and

Whereas, the City of Greensboro has allocated money to purchase adjacent property, also once the property of David Caldwell, which is to be included in the David Caldwell Park; and

Whereas, historical and archaeological investigation is needed before a developmental plan can be initiated so that this site can receive full use for the education and enjoyment of our people; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, for assistance in the historical and archaeological investigation of the David Caldwell Log College Site for the 1976-77 fiscal year the sum of twenty thousand dollars ($20,000), provided a like amount is raised by the David Caldwell Log College Corporation after July 1, 1976.

Sec. 2. Funds appropriated in this act shall be expended only in accordance with Sections 121-11 and 143-31.2 of the General Statutes.

Sec. 3. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 849 **CHAPTER 953**

AN ACT TO ESTABLISH A STATE FUND FOR ADOPTIVE CHILDREN WITH SPECIAL NEEDS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 48 of the General Statutes is hereby amended by adding the words "Article 1" immediately before G.S. 48-1, said Article to be entitled, "Adoptions Procedure."

Sec. 2. Chapter 48 of the General Statutes is further amended by adding Article 2 immediately following G.S. 48-36 to be entitled, "State Fund for Adoptive Children With Special Needs."

Sec. 3. The following new sections are hereby added to Chapter 48 of the General Statutes, immediately following G.S. 48-36:

"§ 48-37. *Purpose.*—It is the purpose of this Article to encourage, within the limits of available funds, the adoption of certain hard-to-place children in order to make it possible for children living in, or likely to be placed in foster homes or institutions, to benefit from the stability and security of permanent homes in which such children can receive continuous care, guidance, protection and love to reduce the number of such children who might be placed or remain in foster homes or institutions until they become adults.

"§ 48-38. *State Fund for Adoptive Children with Special Needs.*—(a) A fund, to be known as the 'State Fund for Adoptive Children with Special Needs', shall be created from appropriations made by the General Assembly and from grants of the federal government when made available to the State. This fund shall be used exclusively for the purpose of meeting the needs of adoptive children who are physically or mentally handicapped, older, or otherwise hard to place for adoption.

(b) Financial assistance from the fund shall not be provided when the needed services are available free of cost to the adoptive child or are covered by an insurance policy of the adoptive parents.

"§ 48-39. *Eligibility.*—Eligibility for an adoptive child to receive assistance from the State Fund for Adoptive Children with Special Needs shall be determined by the Department of Human Resources under rules and regulations promulgated by the Social Services Commission."

Sec. 4. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 890 **CHAPTER 954**

AN ACT TO APPROPRIATE FUNDS TO THE WARREN COUNTY BICENTENNIAL COMMITTEE FOR THE RESTORATION AND DEVELOPMENT OF THE NATHANIEL MACON HOMESITE.

Whereas, Nathaniel Macon was born December 17, 1758, of one of the oldest families in the section of the State that became Warren County in 1779, attended Princeton, turned down an officer's commission to fight as a private in the infantry during the Revolutionary War, farmed a modest plantation (he could have had more), worked in the fields alongside his slaves, never built an elaborate mansion, was a charter trustee of Warrenton Academy, and believed in the people; and

Whereas, Nathaniel Macon was a nationally prominent senator and congressman from North Carolina, serving in the North Carolina State Senate for over five years (1781-1786) and in both houses of the United States Congress continuously for 37 years (1791-1828); and

Whereas, Nathaniel Macon became the recognized leader of North Carolina's Congressional delegation and of the Democratic Party; and

Whereas, he was Speaker of the House of Representatives for six years (1801-1807) and the only North Carolinian to enjoy that honor, and upon becoming a member of the United States Senate he served as President Pro Tempore of that body on three occasions; and

Whereas, Thomas Jefferson referred to Nathaniel Macon as "the last of the Romans"; and

Whereas, as a loyal public servant, Nathaniel Macon represented the interests of the people of North Carolina with honesty and with integrity; and

Whereas, the Warren County Bicentennial Committee has agreed to assist the Warren County Historical Society, Incorporated, in the raising of funds for the restoration of Nathaniel Macon's Home in Warren County, North Carolina, which is planned as the major focus of Warren County's Commemoration of the Bicentennial of the American Revolution and the formation of the county in 1779; and

Whereas, this restoration effort is in need of additional funds in order to be successfully completed by the time of the Bicentennial; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, for assistance in the historical and archeological investigation and restoration of Buck Spring and its dependencies in Warren County for the 1976-1977 fiscal year the sum of twenty-two thousand five hundred dollars ($22,500), provided a like amount is raised by the Warren County Historical Society, Incorporated, after July 1, 1976.

Sec. 2. Funds appropriated in the act shall be expended only in accordance with G.S. 121-11 and G.S. 143-31.2.

Sec. 3. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 896 CHAPTER 955

AN ACT TO APPROPRIATE SUPPLEMENTARY FUNDS FOR RENOVATION OF THE GOVERNOR'S MANSION TO MAKE IT SUITABLE AS BOTH A PUBLIC RESIDENCE AND A PRIVATE RESIDENCE FOR THE GOVERNOR.

Whereas, Section 4 of Chapter 523 of the Session Laws of 1973 appropriated five hundred seventy-five thousand dollars ($575,000) for the purpose of renovation of the Governor's Mansion in accordance with the directions for renovation contained in Chapter 597 of the Session Laws of 1973; and

Whereas, although contemplated by Chapter 597 (Sec. 2(c)), conversion of the third floor area into private family living quarters for the Governor and his family is not feasible at this time; and

Whereas, it has been determined that additional renovation is necessary to effectuate the purposes of the appropriation and Chapter 597 to render the mansion "a safe and comfortable structure in which the Governor may hold public and ceremonial functions and in which, at the same time, the Governor's family may have private areas which will allow ordinary family living without interference from the public" and that a supplemental appropriation is required to perform such additional renovation; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is appropriated to the Department of Administration from the General Fund the sum of two hundred seventy thousand dollars ($270,000) for the 1975-1976 fiscal year to be used for renovating, equipping and furnishing the Governor's Mansion located on Blount Street in Raleigh. This appropriation is supplemental to that appropriation for similar purposes contained in Section 4 of Chapter 523 of the Session Laws of 1973 and is to be expended in continuation of the work to be performed under that appropriation.

Sec. 2. Subsection (c) of Section 2 of Chapter 597 of the Session Laws of 1973 is hereby repealed.

Sec. 3. Renovations and alterations authorized to be performed under the supplemental appropriation herein granted shall include but not be limited to:

(a) Additional coat of paint on first and second floors.
(b) Restoration of foyer and staircase.
(c) Roof repair and restoration.
(d) Repair of south porch and supporting basement structural system.
(e) Exterior painting and repair.
(f) Repair exterior masonry and masonry joints.
(g) Waterproofing west wall.
(h) Refinishing floors on second floor and installation of area rugs.
(i) Replacement of draperies and cornices on first and second floors.
(j) Insulation of third floor walls.
(k) Window repair.
(l) Bathroom construction.

Sec. 4. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 729 **CHAPTER 956**

AN ACT TO AMEND CHAPTER 7A AND CHAPTER 135 OF THE GENERAL STATUTES RELATING TO THE JUDICIAL DEPARTMENT AND THE GENERAL COURT OF JUSTICE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-41 is amended, in the table, with reference to the number of full-time assistant district attorneys (formerly solicitors) authorized for the twenty-seventh judicial district, by deleting the figure "6", and inserting in lieu thereof "4 for Prosecutorial District 27-A and 3 for Prosecutorial District 27-B".

Sec. 2. G.S. 7A-41 is amended, in the table, by raising the number of authorized assistant district attorneys in the indicated districts as follows:

"Judicial District	Number of Full-Time Assistant District Attorneys
1	3
2	3
3	5
5	5
6	3
7	4
8	4
10	11
11	4
12	8
14	4
15	5
17	4
18	9
19	5
20	5
21	7
25	5
26	14."

Sec. 3. Article 7 of Chapter 7A is hereby amended by adding a new section G.S. 7A-44.1 to read as follows:

"§ 7A-44.1. *Secretarial and clerical help.*—The senior regular superior court judge of each judicial district is authorized to appoint a judicial secretary to serve the secretarial and clerical needs of the superior court judges of the district under the direction of the senior regular resident superior court judge. The appointment may be full or part-time and the compensation and allowances of such secretary shall be fixed by the senior regular resident superior court judge, within limits determined by the administrative office of the courts, and paid by the State."

Sec. 4. G.S. 7A-60 is rewritten to read as follows:

"§ 7A-60. *District Attorneys and prosecutorial districts.*—(a) Except as provided in subsection (b), effective January 1, 1971, the State shall be divided into prosecutorial districts, the numbers and boundaries of which shall be identical with those of the superior and district court judicial districts. In the general election of November, 1970, a district attorney shall be elected for a

four-year term for each prosecutorial district. The district attorney shall be a resident of the district for which elected, and shall take office on January 1 following the election. A vacancy in the office of district attorney shall be filled as provided in Article IV, Section 19 of the Constitution.

(b) Effective July 1, 1975, the twenty-seventh prosecutorial district is divided into two prosecutorial districts, to be known as Prosecutorial Districts 27-A and 27-B. District 27-A shall consist of Gaston County, and District 27-B shall consist of Cleveland and Lincoln Counties. The current district attorney of the twenty-seventh prosecutorial district shall become the district attorney of Prosecutorial District 27-B, and the senior regular resident superior court judge shall appoint a district attorney for Prosecutorial District 27-A. The appointee shall serve until January 1, 1977, and his successor shall be chosen in the general election of November, 1976. The successor shall serve for the remainder of the term expiring December 31, 1978."

Sec. 5. G.S. 7A-66.1 is amended by deleting subsection "(b)".

Sec. 6. G.S. Chapter 7A, Article 9 ("District Attorneys and Judicial Districts") is amended by adding a new section to read as follows:

"§ 7A-69. *Investigational assistants.*—The district attorney in the tenth, twelfth, fourteenth, eighteenth, twentieth, twenty-first, twenty-sixth, twenty-seventh and twenty-eighth judicial districts is entitled to one investigatorial assistant to be appointed by the district attorney and to serve at his pleasure. It shall be the duty of the investigatorial assistant to investigate cases preparatory to trial and to perform such other duties as may be assigned by the district attorney. The investigatorial assistant is entitled to reimbursement for his subsistence and travel expenses to the same extent as State employees generally."

Sec. 7. G.S. 7A-101 is rewritten to read as follows:

"§ 7A-101. *Compensation.*—The clerk of superior court is a full-time employee of the State and shall receive an annual salary, payable in equal monthly installments, based on the population of the county, as determined by the 1970 federal decennial census, according to the following schedule:

Population	Salary
Less than 10,000	$ 9,900.00
10,000 to 19,999	12,500.00
20,000 to 49,999	15,000.00
50,000 to 99,999	17,000.00
100,000 to 199,999	19,800.00
200,000 and above	24,000.00

When a county changes from one population group to another as a result of any future decennial census, the salary of the clerk shall be changed to the salary appropriate for the new population group on July 1 of the first full biennium subsequent to the taking of the census (July 1, 1981; July 1, 1991; etc.), except that the salary of an incumbent clerk shall not be decreased by any change in population group during his continuance in office.

The clerk shall receive no fees or commission by virtue of his office. The salary set forth in this section is the clerk's sole official compensation, but if, on June 30, 1975, the salary of a particular clerk, by reason of previous but no longer authorized merit increments, is higher than that set forth in the table, that higher salary shall not be reduced during his continuance in office."

Sec. 8. Effective the first Monday in December, 1976, G.S. 7A-133 is amended, in the table, so that the number of district court judges for each of the indicated districts will be increased by one, and the total number of judges for each of these districts will read as follows:

"Districts	Judges
3	5
9	4
16	4
18	8
30	3."

Sec. 9. Candidates for the additional judgeships created in Section 8 of this act shall run in the primary and general election of 1976.

Sec. 10. G.S. 7A-133 is amended, in the table, so that the quotas of magistrates for the indicated counties are increased as follows:

"County	Magistrates	
	Min.	Max.
Carteret	4	7
Harnett	7	10
Chatham	3	6
Orange	4	8
Randolph	4	7
Moore	5	7
Davidson	5	8
Iredell	4	8
Caldwell	4	7
Buncombe	6	12
Cherokee	3	4
Haywood	5	7
Jackson	3	4
Macon	3	4."

Sec. 11. G.S. Chapter 7A, Article 16 ("Magistrates") is amended by adding a new section thereto to read as follows:

"§ 7A-177. Within six months of taking the oath of office as a magistrate for the first time, a magistrate is required to attend and satisfactorily complete a course of basic training of at least 40 hours in the civil and criminal duties of a magistrate. The Administrative Office of the Courts is authorized to contract with the Institute of Government or with any other qualified educational organization to conduct this training, and to reimburse magistrates for travel and subsistence expenses incurred in taking such training."

Sec. 12. G.S. 7A-344 is amended by rewriting subsection (4) thereof, to read as follows:

"(4) Accept and utilize federal or private funds, as available, to improve defense services for the indigent, including indigent juveniles alleged to be delinquent or undisciplined. To facilitate processing of juvenile cases, the administrative officer is further authorized, in any judicial district, with the approval of the chief district court judge, to engage the services of a particular attorney or attorneys to provide specialized representation on a full-time or part-time basis."

Sec. 13. G.S. 7A-375(b) is amended by rewriting the last sentence to read as follows:

"Members who are not judges are entitled to per diem and all members are entitled to reimbursement for travel and subsistence expenses at the rate applicable to members of State boards and commissions generally, for each day engaged in official business."

Sec. 14. G.S. 7A-465 is amended by inserting therein between the present second and third paragraphs, the following new paragraph:

"The office of public defender is established, effective July 1, 1975, in the twenty-sixth and twenty-seventh judicial districts."

Sec. 15. G.S. 7A-466 is amended by rewriting the first sentence thereof to read as follows:

"The public defender in the twelfth, eighteenth, twenty-sixth and twenty-seventh judicial districts shall be appointed by the Governor from a list of not less than two and not more than three names nominated by written ballot of the attorneys resident in the district who are licensed to practice law in North Carolina."

Sec. 16. G.S. 7A-466 is further amended by deleting the last two sentences of paragraph 1, and inserting in lieu thereof:

"The terms of office of the public defenders authorized in G.S. 7A-465 are for four years, beginning on the dates specified in that section for each district, and each fourth year thereafter."

Sec. 17. G.S. Chapter 135 is amended by the addition of the following Article thereto:

"ARTICLE 4B.

"Uniform Clerks of Superior Court Retirement Act of 1975.

"§ 135-79. *Short title and purpose.*—(a) This Article shall be known and may be cited as the 'Uniform Clerks of Superior Court Retirement Act of 1975'.

(b) The purpose of this Article is to improve the administration of justice by attracting the most highly qualified talent available within the State to the position of clerk of superior court.

"§ 135-80. *Scope.*—(a) This Article provides uniform retirement benefits for all clerks of superior court of the General Court of Justice who were so serving on January 1, 1975, or who become such thereafter.

(b) The Board of Trustees of the Teachers' and State Employees' Retirement System shall administer the provisions of this Article. Provisions of Article 4 of Chapter 135 of the General Statutes shall apply to clerks of superior court and their spouses to the same extent that they apply to a judge of the district court division of the General Court of Justice including, but not limited to, benefits, entitlements, and amounts of contributions to the retirement system."

Sec. 18. Article 40 of Chapter 7A of the General Statutes relating to the North Carolina Courts Commission is hereby repealed. All unexpended appropriations heretofore made to the Courts Commission shall revert to the General Fund.

Sec. 19. There is hereby appropriated from the General Fund to the Administrative Office of the Courts the sum of one million eight hundred seventeen thousand one hundred twenty-two dollars ($1,817,122) for fiscal year 1975-76, and the sum of one million eight hundred nineteen thousand three hundred seventy-six dollars ($1,819,376) for the fiscal year 1976-77 for the purpose of carrying out the provisions of this act.

Sec. 20. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 466 CHAPTER 957

AN ACT TO APPROPRIATE MATCHING FUNDS TO ASSIST IN THE RESTORATION OF THALIAN HALL IN WILMINGTON.

Whereas, Thalian Hall in Wilmington, completed in 1858, is believed to be the oldest theater in continuous use in the United States; and

Whereas, the Thalian Association, which has occupied the hall since its erection, was organized in the eighteenth century and is one of the oldest dramatic societies in the country; and

Whereas, Thalian Hall, a building with architectural as well as historical and cultural importance, has provided the setting for performances by many noted actors and actresses, including Tyrone Power, Buffalo Bill Cody, Tom Thumb, Lillian Russell and Agnes Morehead; and

Whereas, Thalian Hall was damaged by fire in 1973 and requires extensive restoration for continued use as an historic and cultural building; and

Whereas, the Thalian Hall Commission, Incorporated, has raised two hundred sixteen thousand four hundred sixty-six dollars ($216,466) toward the estimated two hundred seventy-five thousand dollars ($275,000) required to restore the interior of the structure; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Division of Archives and History of the Department of Cultural Resources for the fiscal year 1976-1977, subject to provisions of G.S. 121-11 and G.S. 143-31.2, the sum of twenty-five thousand dollars ($25,000) for the purpose of assisting in the restoration of Thalian Hall in Wilmington, subject to the raising of a like amount by the Thalian Hall Commission on or after July 1, 1975.

Sec. 2. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 474 CHAPTER 958

AN ACT TO PROVIDE FOR THE ERADICATION OF THE BOLL WEEVIL.

The General Assembly of North Carolina enacts:

Section 1. Short Title. This act may be cited as the Uniform Boll Weevil Eradication Act.

Sec. 2. Declaration of policy. The Anthonomus grandis Boheman, known as the boll weevil, is hereby declared to be a public nuisance, a pest, and a menace to the cotton industry. The purpose of this act is to secure the eradication of the boll weevil.

Sec. 3. Definitions. As used in this act, the following words shall have the meaning stated below, unless the context requires otherwise:

1. Commissioner. The Commissioner of the Department of Agriculture of this State or any officer or employee of said Department or designated cooperator to whom authority to act in his stead has been or hereafter may be delegated.

2. Boll weevil. Anthonomus grandis Boheman, the boll weevil, in any stage of development.

3. Cotton. Any cotton plant or cotton plant product upon which the boll weevil is dependent for completion of any portion of its life cycle.

4. Host. Any plant or plant product upon which the boll weevil is dependent for completion of any portion of its life cycle.

5. Infested. Actually infested with a boll weevil or so exposed to infestation that it would be reasonable to believe that an infestation exists.

6. Person. Any individual, corporation, company, society, or association, or other business entity.

7. Regulated article. Any article of any character carrying or capable of carrying the boll weevil, including, but not limited to cotton plants, seed cotton, other hosts, gin trash, and mechanical cotton pickers, as designated by regulations of the Commissioner.

8. Certificate. A document issued or authorized by the Commissioner indicating that a regulated article is not contaminated with boll weevils.

9. Permit. A document issued or authorized by the Commissioner to provide for the movement of regulated articles to restricted destinations for limited handling, utilization, or processing.

Sec. 4. Cooperative programs authorized. The Commissioner is hereby authorized and directed to carry out programs to destroy and eliminate boll weevils in this State. The Commissioner is authorized to cooperate with any agency of the federal government or any state contiguous to this State, any other agency in this State, or any person engaged in growing, processing, marketing, or handling cotton, or any group of such persons, in this State, in programs to effectuate the purposes of this act, and may enter into written agreements to effectuate such purposes. Such agreements may provide for cost sharing, and for division of duties and responsibilities under this act and may include other provisions generally to effectuate the purposes of this act.

Sec. 5. Entry of premises; eradication activities; inspections. The Commissioner, or his authorized representative, shall have authority, as provided in this section, to enter cotton fields and other premises in order to carry out such activities, including but not limited to treatment with pesticides, monitoring, and destruction of growing cotton and/or other host plants, as may be necessary to carry out the provisions of this act. The Commissioner, or his authorized representative, shall have authority to make inspection of any fields or premises in this State and any property located therein or thereon for the purpose of determining whether such property is infested with the boll weevil. Such inspection and other activities may be conducted at any hour with the permission of the owner or person in charge. If permission is denied the Commissioner or his authorized representative, such inspection and other activities may be conducted without a warrant with respect to any outdoor premises, if conducted in a reasonable manner between the hours of sunrise and sunset. Such inspections and other activities may be conducted in a reasonable manner, with a warrant, with respect to any premises. Any judge of this State may, within his territorial jurisdiction, and upon proper cause to believe that any cotton or other regulated article is in or upon any premises in this State, issue warrants for the purpose of conducting administrative inspections and other activities authorized by this act.

Sec. 6. Reports. Every person growing cotton in this State shall furnish to the Commissioner, or his authorized representative, on forms supplied by the Commissioner, such information as the Commissioner may require, concerning the size and location of all commercial cotton fields and of non-commercial patches of cotton grown as ornamentals or for other purposes.

Sec. 7. Quarantine. The Commissioner is authorized to promulgate regulations, quarantining this State, or any portion thereof, and governing the storage or other handling in the quarantined areas of regulated articles and the movement of regulated articles into or from such areas, when he shall determine that such action is necessary, or reasonably appears necessary, to prevent or retard the spread of the boll weevil. Before quarantining any area, the Commissioner shall hold a public hearing under such rules as he shall determine, at which hearing any interested party may appear and be heard either in person or by attorney: Provided, however, the Commissioner may promulgate regulations, imposing a temporary quarantine for a period not to exceed 60 days, during which time a public hearing, as herein provided, shall be held if it appears that a quarantine for more than 60 days will be necessary to prevent or retard the spread of the boll weevil. It shall be unlawful for any person to store or handle any regulated article in a quarantined area, or to move into or from a quarantined area any regulated article, except under such conditions as may be prescribed by the regulations promulgated by the Commissioner.

Sec. 8. Authority to designate elimination zones; authority to prohibit planting of cotton and to require participation in eradication program. The Commissioner, subject to the provisions of Section 13 of this act, is authorized to designate by regulation one or more areas of this State as "elimination zones" where boll weevil eradication programs will be undertaken. The Commissioner is authorized to issue regulations prohibiting the planting of non-commercial cotton in such elimination zones, and requiring that all growers of commercial cotton in the elimination zones participate in a program of boll weevil eradication including cost sharing as prescribed in the regulations. Notice of such prohibition and requirement shall be given by publication for one day each week for three successive weeks in a newspaper having general circulation in the affected area.

Sec. 9. Authority for destruction or treatment of cotton in elimination zones; compensation payable, when. The Commissioner or his authorized representative shall have authority to destroy, or in his discretion, to treat with pesticides, volunteer or other non-commercial cotton in elimination zones when the Commissioner deems such action necessary to effectuate the purposes of this act. No payment shall be made by the Commissioner to the owner or lessee for the destruction or injury of any cotton which was planted in an elimination zone after publication of notice as provided in Section 8, or which was otherwise handled in violation of this act. However, the Commissioner shall pay for losses resulting from the destruction of cotton which was planted in such zones prior to promulgation of such notice.

Sec. 10. Authority to regulate pasturage, entry, and honeybee colonies in elimination zones and other areas. The Commissioner is authorized to promulgate regulations restricting the pasturage of livestock, entry by persons, and location of honeybee colonies in any premises in an elimination zone which have been or are to be treated with pesticides or otherwise treated to cause the

eradication of the boll weevil, or in any other area that may be affected by such treatments.

Sec. 11. Regulations, generally. The Commissioner shall have authority to adopt such other rules and regulations as he deems necessary to further effectuate the purposes of this act. All rules and regulations issued under this act shall be adopted and published in accordance with any additional requirements prescribed in this act.

Sec. 12. Penalties. (1) Any person who shall violate any of the provisions of this act or the regulations promulgated hereunder, or who shall alter, forge or counterfeit, or use without authority, any certificate or permit or other document provided for in this act or in the regulations promulgated hereunder, shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than fifty dollars ($50.00) nor more than one thousand dollars ($1,000) or by imprisonment not exceeding one year, or both, in the discretion of the court.

(2) Any person who shall, except in compliance with the regulations of the Commissioner, move any regulated article into this State from any other state which the Commissioner found in such regulations is infested by the boll weevil, shall be guilty of a misdemeanor and shall be subject to the penalties provided in subsection (1) hereof.

Sec. 13. There is hereby appropriated out of the General Fund of the State, to the Department of Agriculture, in addition to all other appropriated funds, the sum of fifty-five thousand dollars ($55,000) for the 1975-1976 fiscal year in order to carry out the provisions of this act; provided, however, that such funds shall be held in contingency until the Commissioner determines that the federal government and the cotton producers of this State, as determined by referendum, will cooperate and provide an equitable share of the cost of carrying out the provisions of this act. Such cotton producer referendum must receive the favorable vote of two-thirds of the producers casting votes. All producers of commercial cotton in North Carolina shall be eligible to vote.

Sec. 14. Severability provision. If any provision of this act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of this act and of the application of such provision to other persons and circumstances shall not be affected thereby.

Sec. 15. Effective date. This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 762 CHAPTER 959

AN ACT TO MAKE APPROPRIATIONS TO THE DIVISION OF MENTAL HEALTH SERVICES, DEPARTMENT OF HUMAN RESOURCES, TO PROVIDE FOR A MENTAL HEALTH MANAGEMENT INFORMATION SYSTEM.

Whereas, it is the policy of North Carolina to provide the best possible mental health services with the most efficient and effective use of public funds, and the existing information system is not adequate to furnish local programs, regional offices, the Division of Mental Health Services, the Department of Human Resources and the General Assembly with the information they need to insure the efficient and effective care of mental health patients; and

Whereas, the Mental Health Study Commission has made specific recommendations that the Division of Mental Health Services, Department of Human Resources develop a comprehensive mental health information system which would provide the information required; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated out of the General Fund of the State the sum of five hundred eighty-three thousand dollars ($583,000) to the Division of Mental Health Services, Department of Human Resources for the development and implementation of a statewide mental health management information system. This system shall provide information concerning mental health services, activities and costs to local programs, regions, the Division of Mental Health Services, the Department of Human Resources and the General Assembly, and shall interface with the management information system of the Department of Human Resources.

The recommendations to be developed and carried out through the implementation of this system shall include:

(a) Development of a system which facilitates reimbursement and reduces inconsistencies in claim settlements, decreases administrative activities of treatment staff and allows growth in care-giving without increasing administrative staff.

(b) Development of mechanisms for monitoring and evaluating the mental health services delivered, provides information for planning, evaluation and budgeting and information to insure continuity of care.

(c) Development of a system to supply information for more equitable decisions on the allocation of resources and services, planning, evaluation and budgeting and for monitoring the quality of care delivered.

Sec. 2. The expenditure of the funds herein appropriated shall not be subject to any of the limitations or restrictions on expenditure of funds contained in Chapter 122 of the General Statutes.

Sec. 3. The expenditure of funds herein appropriated shall be only for the Mental Health Management Information System.

Sec. 4. The funds herein appropriated are non-recurring and unexpended funds from this appropriation shall revert to the General Fund on June 30, 1977.

Sec. 5. The implementation of the recommendations and the effectiveness of such implementation shall be monitored by the Mental Health Study Commission which shall make periodic reports to the Governor, the Lieutenant Governor, the Speaker of the House and the General Assembly.

Sec. 6. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 820 **CHAPTER 960**

AN ACT TO APPROPRIATE FUNDS TO ASSIST IN THE RESTORATION OF KERR MILL IN ROWAN COUNTY.

Whereas, Kerr Mill, near Millbridge, in Rowan County, built ca. 1820, is the only known federal period brick mill in the State; and

Whereas, Dr. Samuel Kerr, the builder of this mill, became involved in the economic and industrial development of the area now known as Millbridge and in the further development of Rowan County by the operation of this mill; and

Whereas, Kerr Mill retains virtually all of its original details, such as handmade brick cornices and stout timberwork, which add architectural interest to this structure; and

Whereas, Kerr Mill has been designated an historic property by the Rowan County Historic Properties Commission; and

Whereas, Kerr Mill and the land upon which it is situated is to be donated to Rowan County and is to be restored by the Rowan County Historic Properties Commission and the Rowan County American Revolution Bicentennial Commission as a heritage aspect of the bicentennial celebration; and

Whereas, Kerr Mill is to be restored to its original historic use and purpose as a mill to be operated for the education and enjoyment of our people; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, for assistance to begin the exterior restoration of Kerr Mill in Rowan County for the 1975-76 fiscal year the sum of twelve thousand five hundred dollars ($12,500), provided a like amount is raised by the Rowan County Historic Properties Commission after July 1, 1975; and for the 1976-77 fiscal year for assistance in completing the restoration of Kerr Mill in Rowan County, the sum of twelve thousand five hundred dollars ($12,500), provided a like amount is raised by the Rowan County Historic Properties Commission after July 1, 1976.

Sec. 2. Funds appropriated in this act shall be expended only in accordance with Sections 121-11 and 143-31.2 of the General Statutes.

Sec. 3. This act shall be in effect on and after July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 919 **CHAPTER 961**

AN ACT TO AMEND THE NORTH CAROLINA FEED LAW OF 1973 TO EXEMPT CERTAIN MANUFACTURERS OF COMMERCIAL FEED FROM THE INSPECTION FEE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 106-284.33 is hereby amended by adding a subsection (24) to read as follows:

"The term 'contract feeder' means a person who, as an independent contractor, feeds commercial feed to animals pursuant to a contract between that person and a manufacturer of commercial feeds whereby such commercial feed is supplied, furnished, or otherwise provided to such person by the said manufacturer and whereby such person's remuneration is determined all or in

part by feed consumption, mortality, profits, or amount or quality of product produced by the independent contractor."

Sec. 2. G.S. 106-284.40(b) is hereby amended by adding a subsection (6) to read as follows:

"Manufacturers of commercial feeds may appear before the board, and after finding there exists a contract feeder relationship between a manufacturer of commercial feeds and an independent contractor, the board may issue annual numbered permits exempting that manufacturer of commercial feed from paying the inspection fee assessed by the provisions of this law for that feed delivered to the contract feeder. The manufacturer of ingredients who sells such ingredients to manufacturers of commercial feeds under this subsection shall have in his possession the exemption number of the permit referred to in G.S. 106-284.34(b) and/or the permit issued by the board under this subsection before the supplier may be relieved of the responsibility for payment of the inspection fee.

The holder of said permit may voluntarily return said permit to the commissioner for cancellation at which time said holder may not apply for or receive another exemption permit under this subsection for a period of 12 months. The exemption permits under this subsection shall be renewable automatically every year by the board without additional findings of fact unless it is brought to the board's attention by the commissioner or his duly designated officer or employee that there no longer exists the relationship of a contract feeder between the manufacturer of commercial feeds and an independent contractor. In the event the commissioner or his duly designated officer or employee notifies the board when the permit is to be automatically renewed or anytime the permit is in effect, that there no longer exists a contract feeder relationship for the permit holder, the board shall determine the veracity of the notification and revoke said permit if the facts are found to be true by the board.

Commercial feeds exempt from inspection fees under this subsection shall not be subject to sampling and analysis other than as may be necessary to determine compliance with Good Manufacturing Practice Regulations pertaining to medicated animal feed and medicated feed premixes established under G.S. 106-284.38(d) of this law."

Sec. 3. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 932 CHAPTER 962

AN ACT TO APPROPRIATE FUNDS FOR THE NORTH CAROLINA SOCIETY FOR AUTISTIC CHILDREN, INCORPORATED.

Whereas, the North Carolina Society for Autistic Children, Incorporated, has for several years operated a summer residential camp program for autistic and communications handicapped children, who are functionally retarded; and

Whereas, this program provides recreational opportunities, generally unavailable, for these children, including arts, hiking, crafts, swimming, campfire activities, and provides a welcome service for their parents; and

Whereas, this camp is staffed, in a ratio of one staff member for each two children, with high school and college students who are planning careers which involve working with handicapped children and provides a valuable training and learning period for these students; and

Whereas, it is desirable that this summer residential camp program be improved and continued, in order to provide these valuable services for the State; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated out of the General Fund to the Department of Human Resources for a grant-in-aid to the North Carolina Society for Autistic Children, Incorporated, the sum of ten thousand dollars ($10,000) each year of the 1975-77 biennium for the operation of a summer residential camp for autistic and communications handicapped children.

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 948 CHAPTER 963

AN ACT TO APPROPRIATE FUNDS FOR THE NORTH CAROLINA SYMPHONY FOR THE 1975-77 BIENNIUM.

Whereas, The North Carolina Symphony Society, Inc., had its beginning in 1932 and through educational concerts and performances has from that time carried the message of good music throughout the State, making the North Carolina Symphony unique in the nation; and

Whereas, the North Carolina Symphony was created to serve the citizens and residents of this State and provides a unique educational experience for children in the public school system of the State by furnishing rich and beautiful music without charge to those children; and

Whereas, the symphony is composed of 70 outstanding musicians who, in the 1974-75 season gave 264 performances before a total audience of more than 216,000 North Carolinians, 130,000 of whom were children; and

Whereas, the General Assembly of North Carolina has since 1943 financially supported the North Carolina Symphony with such support in recent years being approximately sixty percent (60%) of the total costs involved; and

Whereas, the State financial support has now fallen to forty-nine percent (49%) and this supplemental appropriation is necessary to return the State support to sixty percent (60%); and

Whereas, the North Carolina Symphony requires a supplemental appropriation of two hundred thirty-four thousand dollars ($234,000) for the 1975-76 season and a supplemental appropriation of three hundred eighty-one thousand dollars ($381,000) for the 1976-77 season, and without such financial assistance will be unable to continue offering memberships and children's educational programs and concerts in the same fashion as in the past; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated out of the General Fund to the Department of Cultural Resources for the North Carolina Symphony the sum of twelve thousand five hundred dollars ($12,500) for each fiscal year of the 1975-77 biennium for the operation of concert programs and performances by the symphony.

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 951 CHAPTER 964

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF ADMINISTRATION FOR USE BY THE COMMISSION OF INDIAN AFFAIRS.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Department of Administration for the use of the North Carolina Commission of Indian Affairs the sum of twenty thousand dollars ($20,000) for the fiscal year 1975-76 to be expended for salary, travel and per diem expenses according to the following schedule:

Salary, State Planner and Associate Director $15,000 Travel and per diem 5,000

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 999 CHAPTER 965

AN ACT TO PROVIDE INCREASED SUPPORT OF LIBRARY/LEARNING RESOURCES CENTER PERSONNEL IN THE PUBLIC SCHOOLS THROUGH AN ALLOCATION OF FUNDS.

Whereas, it is the generally accepted belief of educators, students, parents, and other citizens of the State that the library/learning resources center is the base on which instructional programs must be built; and

Whereas, there are 642 schools or nearly 1/3 of the total number of schools in North Carolina that have no certified librarian; and

Whereas, it is essential that every school be provided with such services if other instructional programs are to be fully effective; and

Whereas, the growing urgency to find improved ways of insuring that every child reads up to the level of his potential cannot be effectively implemented in the absence of adequate library/learning resources center services; and

Whereas, a qualified school librarian is the key to an effective school library/learning resources center program; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. A new Article 25B is added to G.S. Chapter 115 to read as follows:

"ARTICLE 25B.

"§ 115-210. *Librarians for schools.*—(a) Each of the county and city administrative units in the State shall employ at least one half-time librarian."

Sec. 2. The employment of librarians under authority of this act shall be supplemental to, and shall not supplant, any previously existing library positions that were funded from locally supported programs for library personnel or funded by the State through the State Board of Education's allocation of teachers and other instructional personnel. Librarians employed under authority of this act shall not be considered part of the allocation of teachers and other instructional personnel made under the authority of G.S. 115-59(b). The

State Board of Education shall require city and county administrative units to provide evidence that the expenditure of local funds and the expenditure of State funds for library personnel are each no less than the amount of State or local funds expended per pupil for such purposes in average daily membership for the prior year.

Sec. 3. A new sentence is added to G.S. 115-59(b) to read as follows: "Librarians authorized under the authority of G.S. 115-210 shall be in addition to the teachers and other instructional personnel allocated in these categories."

Sec. 4. There is hereby appropriated to the State Board of Education from the General Fund the sum of nine hundred eleven thousand six hundred fifty-seven dollars ($911,657) for the 1976-77 fiscal year for support of library/learning resources center personnel.

Sec. 5. Funds appropriated under this act shall be in addition to all other funds recommended by the Advisory Budget Commission and allocated to county and city school administrative units by the State Board of Education to provide one-half position for each administrative unit.

Sec. 6. This act shall become effective on July 1, 1976.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 1019 CHAPTER 966

AN ACT TO APPROPRIATE FUNDS FOR THE SNOW CAMP HISTORICAL DRAMA SOCIETY, INC.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund of the State of North Carolina to the Snow Camp Historical Drama Society, Inc., the sum of fifteen thousand dollars ($15,000) for the fiscal year 1975-76 and fifteen thousand dollars ($15,000) for the fiscal year 1976-77.

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 1040 CHAPTER 967

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF CORRECTION FOR THE PURPOSE OF CONSTRUCTING A MULTI-PURPOSE BUILDING AT THE WHITE LAKE PRISON UNIT.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Department of Correction the sum of forty thousand dollars ($40,000) for the 1976-77 fiscal year for the purpose of constructing a multi-purpose building at the White Lake Prison Unit which will serve both as a chapel and as a recreational facility. The expenditure of the funds herein appropriated shall be contingent upon a local contribution of ten thousand dollars ($10,000).

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 1144 **CHAPTER 968**

AN ACT TO APPROPRIATE THREE HUNDRED FIFTY THOUSAND DOLLARS ($350,000) FROM THE STATE HIGHWAY FUND IN 1975-76 AND ONE HUNDRED FIFTY THOUSAND DOLLARS ($150,000) FROM THE STATE HIGHWAY FUND IN 1976-77 TO PROVIDE RETIREMENT SYSTEM COVERAGE FOR STATE HIGHWAY COMMISSION PERMANENT EMPLOYEES HERETOFORE INADVERTENTLY CLASSIFIED AS TEMPORARY EMPLOYEES.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated out of the State Highway Fund the sum of three hundred fifty thousand dollars ($350,000) in 1975-76 and one hundred fifty thousand dollars ($150,000) in 1976-77 to be expended by the Division of Highways of the North Carolina Department of Transportation in making payments to the Teachers' and State Employees' Retirement System of the employer's contributions with respect to full-time permanent employees of the Division who heretofore were inadvertently classified as temporary employees. Such payments shall be conditioned upon an employee's making a lump sum payment, together with interest thereon, to the retirement system of an amount equal to the employee's contribution which the employee would have made had he initially been properly classified as a permanent employee. Any part of the above described appropriation not expended for the above described purpose on July 1, 1977, shall revert to the State Highway Fund.

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 1151 **CHAPTER 969**

AN ACT TO APPROPRIATE FUNDS TO THE NORTH CAROLINA DEPARTMENT OF HUMAN RESOURCES TO ENABLE THE WESTERN CAROLINA CENTER TO MEET INTERMEDIATE CARE FACILITY STANDARDS IN ORDER TO CONTINUE TO RECEIVE FEDERAL MEDICAID-MEDICARE FUNDS.

Whereas, the General Assembly finds and declares, as did the Mental Health Study Commission, that the Western Carolina Center, located in Morganton, North Carolina, is close to meeting federal Medicaid-Medicare standards; and

Whereas, if these standards are not completely met by March, 1977, federal funds of considerable magnitude will be withdrawn from the receipts of that facility; and

Whereas, it is necessary for the Western Carolina Center to meet federal Medicaid-Medicare standards in order to assure the provision of adequate services to those mentally retarded and multiply handicapped citizens who, through no fault of their own, find themselves at the Center in need of treatment and care; and

Whereas, a class action suit has recently been instituted against several State agencies, including the Western Carolina Center, alleging that such facilities as the Center are not providing adequate treatment and education; and

Whereas, the Western Carolina Center is in need of additional funds to move as rapidly as possible toward meeting federal Medicaid-Medicare standards; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated for the fiscal year 1976-77 from the General Fund to the Department of Human Resources, in addition to all other sums, the sum of forty thousand dollars ($40,000) for the purpose of planning for constructing additional buildings and renovating existing buildings for the general purposes set forth in the preamble to this act.

Sec. 2. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 1193 CHAPTER 970

AN ACT TO APPROPRIATE FUNDS TO BE MADE AVAILABLE FOR LOAN TO THE CHEROKEE HISTORICAL ASSOCIATION, INC., FOR DEVELOPING THE MUSEUM/CULTURAL CENTER OF THE CHEROKEE INDIANS.

Whereas, The Cherokee Historical Association, Inc., through the development of the outdoor drama, "Unto These Hills", the creation of the Living Village of the Cherokee Indians and other similar projects has, for more than 25 years, provided a major stimulus to the tourist industry of the State of North Carolina, thus greatly benefiting the general welfare of the State and contributing greatly to the economy of all tourist-related industries, being a principal force in the generation of some 9,000,000 visitors annually to the Great Smoky Mountains National Park, of which the Town of Cherokee is the eastern gateway, and of some 6,000,000 visitors annually to the Blue Ridge Parkway, of which Cherokee is the southern terminus, these visitors making the Great Smoky Mountains National Park the most heavily used park in the National Park Service system and bringing into the State millions of dollars in general expenditures and tax revenues; and

Whereas, The Cherokee Historical Association, Inc., in cooperation with the Eastern Band of the Cherokee Indians, the United States Economic Development Administration, the State of North Carolina, and various philanthropic and eleemosynary foundations is developing a Museum and Cultural Center of the Cherokee Indians for the benefit of the citizens of the State; and

Whereas, the existing museum at Cherokee is totally inadequate to serve the needs of the thousands of North Carolina public school students who visit it annually in connection with Indian studies, this condition being a major reason for developing the new museum; and

Whereas, the 1973 General Assembly, recognizing the value to the citizens of the State in establishing a center in which the history and culture of the Cherokee Indians would be preserved for the future benefit and advantage of all citizens, appropriated the sum of two hundred fifty thousand dollars ($250,000) for the project; and

Whereas, the Cherokee Historical Association, Inc., has obtained additional monies to support the venture, including one hundred sixty-five thousand dollars ($165,000) in Association funds, ten thousand dollars

($10,000) from the Hillsdale Fund, one hundred thousand dollars ($100,000) from the Z. Smith Reynolds Fund, fifteen thousand dollars ($15,000) from the Percy B. Ferebee Foundation, and eight hundred ten thousand dollars ($810,000) from the United States Economic Development Administration; and

Whereas, the provision of one hundred thousand dollars ($100,000) is essential to the completion of the project, and revenues from the Center will be sufficient to amortize such a loan over a five-year period, and this sum will be borrowed by the Cherokee Historical Association, Inc., from funds appropriated for this purpose; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. During the 1975-76 fiscal year, the sum of one hundred thousand dollars ($100,000) is appropriated from the General Fund to the Contingency and Emergency Fund for loan to the Cherokee Historical Association, Inc., subject to the approval of the Governor and Council of State, to provide for construction and equipment costs for the Museum/Cultural Center of the Cherokee Indians.

Sec. 2. The sum, if made available for such use by the Association prior to June 30, 1976, shall be loaned upon such terms of repayment, not to exceed five years, as may be agreed upon by the Governor and Council of State.

Sec. 3. In the event that such loan is made and the Department of Cultural Resources determines that contracts for construction and equipment of the Museum and Cultural Center of the Cherokee Indians have not been let by the Association by June 30, 1977, any funds which may have been allocated for this purpose under this act shall revert to the General Fund.

Sec. 4. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 5. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 1192 CHAPTER 971

AN ACT TO APPROPRIATE FUNDS FOR THE PURCHASE OF ADDITIONAL LAND AT HOUSE IN THE HORSESHOE STATE HISTORIC SITE.

Whereas, the House in the Horseshoe was the scene of a two-hour battle on August 5, 1781, between Whigs and Tories in the American Revolution; and

Whereas, the House and 3,000-acre plantation later became the residence of Benjamin Williams, four times Governor of North Carolina, and one of the State's first large cotton plantations; and

Whereas, the Moore County Historical Association purchased the house and 4.2 acres of land in 1954 and sold the property to the State of North Carolina the following year under an agreement whereby the association would restore, maintain, and operate the site as a house museum; and

Whereas, the House in the Horseshoe on April 1, 1972, became a part of the system of State Historic Sites administered by the Department of Cultural Resources; and

Whereas, the department has need to acquire additional land to provide space for an outdoor drama to be presented by the Moore County Historical Association, room for parking at the drama, a buffer zone against modern encroachment into the site, and land for further interpretive development; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated to the State Department of Cultural Resources, Division of Archives and History, from the General Fund the sum of twenty thousand dollars ($20,000) for the 1975-1976 fiscal year for the purchase of additional land at the House in the Horseshoe State Historic Site.

Sec. 2. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

S. B. 366 CHAPTER 972

AN ACT TO CREATE AN ADVISORY COUNCIL ON SOLID WASTE RECYCLING, RESOURCE RECOVERY, AND LITTER CONTROL.

The General Assembly of North Carolina enacts:

Section 1. A new Article is added to Chapter 130 of the General Statutes to read as follows:

"ARTICLE 13D.

"Advisory Council on Solid Waste Recycling,
Resource Recovery and Litter Control.

"§ 130-166.34. *Legislative findings and purpose.*—The General Assembly of North Carolina finds that there is an ever increasing rate of generation of solid waste and a corresponding depletion of natural resources; that meeting these problems requires coordination of efforts by both public and private organizations; and that technological advances and economic relationships require monitoring and study. The General Assembly establishes this Advisory Council to perform these functions and insure the future public health of the people of this State.

"§ 130-166.35. *Creation of the Advisory Council on Solid Waste Recycling, Resource Recovery and Litter Control.*—(a) There is created the Advisory Council on Solid Waste Recycling, Resource Recovery, and Litter Control.

(b) The Council shall consist of 15 members. The Governor shall appoint five members among whom shall be the following:

(1) One representative of solid waste handlers,

(2) One representative of solid waste disposal facility operators,

(3) One local public health officer,

(4) The President of the North Carolina Association of County Commissioners or his designee.

The President of the Senate shall appoint five members among whom shall be the following:

(1) One representative of electric utilities,
(2) One representative of the North Carolina Chapter of the American Public Works Association,
(3) One representative of a litter control organization,
(4) The President of the North Carolina League of Municipalities or his designee.

The Speaker of the House of Representatives shall appoint five members among whom shall be the following:

(1) Two representatives of industries whose operations generate large amounts of solid waste,
(2) Two representatives of established citizen action solid waste resource recovery or recycling programs.

The Head of the Solid Waste and Vector Control Branch of the Department of Human Resources shall serve as an *ex officio* non-voting member of the council.

"§ 130-166.36. *Functions and Duties of Advisory Council.*—(a) The Advisory Council shall study technical developments in the field of recycling and resource recovery and report annually their findings to the Governor, the President of the Senate, the Speaker of the House of Representatives and the General Assembly. The study shall include, but not be limited to, the following:

(1) The effects of existing public policies within the State, including subsidies, economic incentives and disincentives, percentage depletion allowances, transportation policies, capital gains treatment, zoning policies, licensing practices, procurement practices, and fees, upon recycling and resource recovery,
(2) Technological developments and their suitability for implementation in North Carolina,
(3) The availability and reliability of markets for recycled and recovered products in North Carolina.

(b) The annual report of the Advisory Council shall include an assessment of littering practices in North Carolina and recommendations for improving those practices. The Council shall study the approaches utilized by other states in the field of litter control and evaluate the probable utility of these approaches in North Carolina.

(c) The Advisory Council shall seek to coordinate the activities of all organizations, both public and private, in the fields of recycling, resource recovery and litter control.

(d) Members of the Council shall serve without compensation, but shall be reimbursed for travel and subsistence expenses in accordance with the provisions of G.S. 138-5(b).

(e) The Secretary of the Department of Human Resources shall provide the necessary secretarial and clerical support and other services required by the Council.

(f) Members of the Council shall be appointed within 60 days of the ratification of this act, and the first meeting shall be held at the call of the Governor within 30 days of the appointment of the last member. A chairman and vice-chairman shall be elected annually by the Council. Meetings shall be held at the call of the chairman, not less than once each quarter of the year."

Sec. 2. There is hereby appropriated from the General Fund to the Department of Human Resources the sum of five thousand dollars ($5,000) for

the 1975-1976 fiscal year and fifteen thousand dollars ($15,000) for the 1976-1977 fiscal year to support the Advisory Council created in Section 1 of this act.

Sec. 3. This act shall become effective upon ratification and shall expire July 1, 1977, unless extended by the General Assembly.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 1183 CHAPTER 973

AN ACT TO APPROPRIATE SIXTY-THREE THOUSAND DOLLARS ($63,000) TO THE NORTH CAROLINA DEPARTMENT OF HUMAN RESOURCES FOR EACH OF THE FISCAL YEARS 1975-1976 AND 1976-1977 TO BE USED FOR THE NORTH CAROLINA TRAINING CENTER FOR INFANT-TODDLER CARE.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Department of Human Resources for a grant-in-aid to the North Carolina Training Center for Infant-Toddler Care, in addition to all other appropriations, the sum of sixty-three thousand dollars ($63,000) for each year of the 1975-77 biennium.

Sec. 2. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. B. 68 CHAPTER 974

AN ACT TO ESTABLISH A COORDINATED HUMAN TISSUE DONATION PROGRAM.

The General Assembly of North Carolina enacts:

Section 1. A new Article is added to Chapter 130 of the General Statutes to read as follows:

"Article 26A.

"Coordinated Human Tissue Donation Program.

"§ 130-235.1. *Legislative findings and purpose.*—The General Assembly of North Carolina finds that there is an increasing need for human tissues for transplantation purposes; that there is a continuing need for human tissues, including entire human cadavers, for the purposes of medical education and research; and that these needs are not being suffciently filled at the present because of, among other reasons, a shortage of human tissue donors. The General Assembly establishes this program to facilitate the acquisition and distribution of human tissues, including human cadavers, so as to lead to bettering the public health of the people of this State.

"§ 130-235.2. *Coordinated Human Tissue Donation Program established.*—(a) The Department of Human Resources shall establish a coordinated program among departments and agencies of the State and all groups, both public and private, involved in the acquisition and distribution of human tissue to:

(1) encourage the publicizing of the need for human tissue donations and of the methods by which these donations are made;

(2) make itself aware of the existing programs of human tissue

transplantation and of medical research and education which employ human tissue, including whole cadavers, and funnel information of useful developments to groups and individuals within this State which such information might benefit;

(3) study the problems surrounding the acquisition and distribution of human tissue and cadavers in this State and make suggestions as to their solution;

(4) disseminate information to health and other professionals concerning the techniques of human tissue retrieval and transplantation, the legalities involved in making anatomical gifts, and the legal responsibilities of individuals under Article 14 of Chapter 90 of the General Statutes which deals with cadavers for medical schools; and

(5) arrange for the quick and precise transportation of donated human tissue in emergency transplant situations.

(b) All departments and agencies of the State and county and municipal law enforcement agencies shall cooperate, insofar as possible and not inconsistent with existing law, in the coordinated program instituted by the Department under the authority of this Article.

"§ 130-235.3. *Creation of the Human Tissue Advisory Council.*—(a) There is created a Human Tissue Advisory Council. There shall be 13 members of this Council, consisting of the following:

(1) a representative from each of the following institutions:
the Bowman-Gray School of Medicine,
the Duke University School of Medicine,
the North Carolina Association of the Blind,
the North Carolina Eye and Human Tissue Bank,
the North Carolina Funeral Directors' Association,
the North Carolina Hospital Association,
the North Carolina Kidney Foundation,
the North Carolina Medical Society,
the University of North Carolina at Chapel Hill School of Medicine,
the East Carolina University School of Medicine;

(2) one member appointed by the Speaker of the House of Representatives;

(3) one member appointed by the President of the Senate; and

(4) the Secretary of Human Resources or his representative.

The Council shall elect its chairman from among its membership.

(b) The Council shall have the duty to advise, confer with, and make recommendations to the Secretary of Human Resources relating to the establishment and conduct of the Coordinated Program for Human Tissue Donations. The Council shall meet upon the call of its chairman or upon agreement of a majority of its membership but shall meet not fewer than three times a year.

(c) The Secretary shall furnish to the Council such secretarial, clerical and other services as he deems necessary. Members of the Council shall serve without compensation but shall be reimbursed for travel and subsistence expenses in accordance with the provisions of G.S. 138-5."

Sec. 2. There is appropriated from the General Fund of the State to the Department of Human Resources the sum of fifty thousand dollars ($50,000) for the establishment and conduct of the program which is authorized by this act for the 1976-1977 fiscal year.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

S. B. 28 **CHAPTER 975**

AN ACT AUTHORIZING THE STATE BOARD OF EDUCATION TO PURCHASE LIABILITY INSURANCE FOR MEMBERS OF THE BOARD.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115-11 is amended by adding a new subparagraph (19) thereto as follows:

"§ 115-11(19). *Liability insurance.*—The Board is authorized to purchase insurance to protect Board members from liability incurred in the exercise of their duty as members of the Board."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

RESOLUTIONS

H. R. 1 RESOLUTION 1

A JOINT RESOLUTION INFORMING HIS EXCELLENCY, GOVERNOR JAMES E. HOLSHOUSER, JR., THAT THE GENERAL ASSEMBLY IS ORGANIZED AND READY TO PROCEED WITH PUBLIC BUSINESS AND INVITING THE GOVERNOR TO ADDRESS A JOINT SESSION OF THE SENATE AND HOUSE OF REPRESENTATIVES AT 7:30 P.M., MONDAY, JANUARY 20, 1975.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. A committee of two on the part of the Senate and three on the part of the House of Representatives shall be appointed to notify His Excellency, James E. Holshouser, Jr., Governor of North Carolina, that the General Assembly is organized and is now ready to proceed with public business and to invite him to deliver an address to a Joint Session of the General Assembly at 7:30 p.m., Monday, January 20, 1975.

Sec. 2. The full text of the Governor's message shall be carried in the appendix of the House and Senate Journals of the 1975 Session of the General Assembly and two thousand (2,000) copies of this address shall be forthwith printed and delivered to the Governor's office for such distribution of same as he may desire to make.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of January, 1975.

S. R. 20 RESOLUTION 2

A JOINT RESOLUTION EXTENDING THE REPORTING DEADLINE OF THE COMMISSION ON SENTENCING CRIMINAL PUNISHMENT AND REHABILITATION.

Whereas, the 1974 Session of the North Carolina General Assembly, recognizing the growing concern over prison overcrowding, authorized and directed the creation of a Commission on Sentencing, Criminal Punishment and Rehabilitation; and

Whereas, the seventeen-member Commission thus created began bi-weekly meetings on June 14, 1974; and

Whereas, the charge to that Commission included study and evaluation of North Carolina's systems of probation, pre-sentence investigation, sentencing, and all possible alternatives thereto, all forms of diversion, special programs and alternatives for first offenders; additionally to study and make recommendations concerning all sentencing statutes, rules and regulations relating to sentence time, credit for good conduct, time credit for special work fulfillment, time credit for injury sustained while confined and all other departmental practices and policies affecting length of sentence and sentence credits; and

Whereas, that Commission was also required to study statutes, rules and regulations pertaining to parole, conditional release and termination thereof, all Department of Corrections practices and policies of the Parole Board and those responsible for administering terminal programs relating to prisoner release and rehabilitation, all other policies and procedures affecting or tending to affect the number of inmates comprising North Carolina's prison population, and to study in addition the Adult Youthful Offender Program and all policies and procedures of North Carolina's Youth Development System; and

Whereas, that Commission was further charged with the responsibility to devise and recommend to the 1975 General Assembly; new policies, plans, practices and procedures including alternatives to existing practices and procedures which are designed to have the effect of reducing the prison population of the State of North Carolina and its heavy economic burden, consistent with the well-being and security of the general population, and consistent with the declared public policy of the State to provide adequate and appropriate facilities for the confinement of persons convicted of crime and programs for the education, rehabilitation and timely return of said persons to society; and

Whereas, the prison population has continued to rise and remains the highest per capita prison population in the country; and

Whereas, public concern over the heavy economic burden of our prison system promises to be an issue of major concern for the 1975 General Assembly; and

Whereas, the Department of Correction has requested in excess of 75 million dollars in capital construction for fiscal year 1975 to relieve the very serious overcrowding in North Carolina's system; and

Whereas, the Commission, its members and staff, have visited numerous correctional facilities for both juvenile and youthful offenders as well as minimum and maximum custody adult prisons; and

Whereas, the Commission has heard testimony at its public meetings from many state agencies and has met both publicly and privately with numerous State officials; and

Whereas, the Commission has through public testimony as well as personal correspondence and staff research, sought out the advice and counsel of experts from across the nation in the various aspects of the criminal justice field; and

Whereas, this continuing effort has resulted in the accumulation of a valuable store of research data on a variety of criminal justice programs which when translated into substantive legislation and if adopted by this General Assembly would substantially reduce the amount needed for new capital construction; and

Whereas, the reporting deadline for the Commission's final report is February 1, 1975; and

Whereas, an extension of this deadline is needed to adequately fulfill the nature and scope of this Commission's legislative charge;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the final reporting date of the Commission on Sentencing, Criminal Punishment and Rehabilitation be extended to May 30, 1975.

Sec. 2. That the Commission render interim report by February 1, 1975.

Sec. 3. That the Commission be authorized to continue its deliberations and functions and exercise the authority granted it by Resolution 184, Senate Joint Resolution 1268, 1973 Session of the General Assembly until the rendering of its final report.

Sec. 4. This resolution shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 3rd day of February, 1975.

S. R. 78 RESOLUTION 3

A JOINT RESOLUTION DESIGNATING FEBRUARY 7, 1975, AS JAYCEE DAY IN THE GENERAL ASSEMBLY.

Whereas, February 7, 1975, is hereby designated Jaycee Day in the General Assembly; and

Whereas, designated leaders of the North Carolina Jaycees, both past and present, including the State President, Gus Tulloss, and many other officers and members of the North Carolina Jaycees are visiting in the General Assembly; and

Whereas, there are currently about 12,000 members of the Jaycees in over 260 Chapters in North Carolina; and

Whereas, these Chapters have been honored in numerous ways in recent years including being in the top 10 of the Jaycee state organizations in the United States as evaulated by the United States Jaycees; and

Whereas, the North Carolina Jaycees have always attempted to make North Carolina a safe and beautiful place in which to live, work and visit; and

Whereas, the North Carolina Jaycees in the area of prison reform have formed 60 Jaycee Chapters in correctional units across North Carolina involving more than 1,200 inmates, this being more than any other state in the Nation; and

Whereas, last year our Jaycees raised more than $150,000 through the sale of jelly for the construction of a burn treatment center at North Carolina Memorial Hospital in Chapel Hill and are currently conducting another such sale with hopes of exceeding that amount this year; and

Whereas, as a result of these tremendous efforts, the Board of Trustees of North Carolina Memorial Hospital has voted to name the new burn center "The North Carolina Jaycees Burn Treatment Center";

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That this General Assembly does hereby welcome our Jaycee guests today and proclaim this date as Jaycee Day in the General Assembly and is happy to congratulate the North Carolina Jaycees for all their many outstanding accomplishments.

Sec. 2. That this General Assembly wishes for the North Carolina Jaycees many more years of good and faithful service to the people of North Carolina through all their local Chapters.

Sec. 3. That a copy of this resolution be forwarded to the North Carolina Jaycees at their headquarters in Asheboro, North Carolina.

Sec. 4. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of February, 1975.

H. R. 17 RESOLUTION 4

A JOINT RESOLUTION HONORING NORTH CAROLINA CENTRAL UNIVERSITY FOR FIFTY YEARS OF SERVICE TO THE STATE AND THE PEOPLE OF NORTH CAROLINA AS A LIBERAL ARTS COLLEGE AND UNIVERSITY.

Whereas, an act of the General Assembly in 1925 created North Carolina College for Negroes as the first state-supported liberal arts college for Negroes in the United States; and

Whereas, the fiftieth anniversary of that creation will be observed during the calendar year 1975 by that institution, now North Carolina Central University; and

Whereas, North Carolina Central University, under the successive guidance of James E. Shepard, Alfonso Elder, Samuel P. Massie, and Albert N. Whiting as chief administrative officers, and the leadership of its Board of Trustees, has provided for generations of North Carolinians a superior education in the liberal arts; and

Whereas, the State of North Carolina and the nation have benefited from the leadership and service provided by the alumni of North Carolina Central University, alumni whose numbers include members of this Assembly and other state legislatures, the mayors of Raleigh, North Carolina, and Atlanta, Georgia, judges of the court systems of North Carolina and other states, many members of local governmental bodies, numerous leaders in business and industry, and a multitude of distinguished educators; and

Whereas, North Carolina Central University has been of great value to the State of North Carolina and to the nation by providing avenues of opportunity to those of North Carolina's citizens whose opportunities have been most restricted; and

Whereas, it is recognized that the coming years will require an expansion of the opportunities which have been provided to the citizens of this State through North Carolina Central University, that those years will demand more citizens who are imbued with the dedication to truth and service which has characterized North Carolina Central University, and that the attention to the physical world and the vast sweep of human endeavor which is the scope of liberal arts will be essential to future generations;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the North Carolina General Assembly congratulate North Carolina Central University on the institution's fifty years of service as a state-supported liberal arts college and university.

Sec. 2. That the General Assembly express its sentiment and sincere desire that the next fifty years of North Carolina Central University's life be crowned with achievements to match the successes of the fifty years just past.

Sec. 3. That certified copies of this resolution shall be transmitted to the Chancellor of North Carolina Central University, to the deans of the five schools which constitute the university, and to the Chairman of the Board of Trustees of North Carolina Central University.

Sec. 4. That this resolution become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of February, 1975.

H. R. 33 **RESOLUTION 5**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF HARVELEIGH MONTE RIVERA WHITE, DISTINGUISHED NORTH CAROLINIAN.

Whereas, Harveleigh Monte Rivera White, longtime resident of Raleigh and Wake County, North Carolina, died at the age of 51 on January 9, 1975, after a long and dedicated life of public service, it is fitting that the General Assembly of North Carolina should recognize with appreciation some of her contributions to the State of North Carolina;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That Harveleigh Monte Rivera White was born in Forsyth County, North Carolina, on April 19, 1923, and received her early education in Mount Olive and at Palmer Memorial Institute in Sedalia, North Carolina. She received her Bachelor of Science degree from Shaw University and her Master's Degree from North Carolina Central University, and studied further at New York University and Columbia University.

In 1952, Mrs. White joined the faculty of Shaw University where she served in a number of faculty positions including that of Chairperson of the Department of Home Economics (1958).

In 1961, Mrs. White was appointed postmistress of the Method Post Office in Wake County where she served with distinction until her untimely death.

In 1961, Mrs. White was honored as "Woman of the Year" by Zeta Phi Beta Sorority.

In 1973, she was chosen Mother of the Year by the North Carolina State Conference of NAACP branches.

Possessed of a superior intellect and ability and an abiding social consciousness, Mrs. White worked tirelessly in her community and in her State to promote racial harmony and understanding and to effect needed social change. By precept and example, her life was devoted to helping obtain equal opportunity, justice and dignity for all people.

In 1947, she married John Owen White, and two children were born of this marriage, Marion Ramona and John Owen, Jr. Mrs. White was a devoted wife, homemaker, mother and grandmother; she gave the full measure of herself in creating the bonds of love within her family and community.

Sec. 2. The General Assembly of North Carolina does hereby express its appreciation for the life, the service, and the example of Harveleigh Monte Rivera White.

Sec. 3. The General Assembly extends its sympathy to the family of Harveleigh Monte Rivera White and acknowledges the loss of this distinguished citizen.

Sec. 4. This resolution shall become a part of the public records of the 1975 Session of the General Assembly of North Carolina, and the Secretary of State shall cause a copy to be transmitted to the family of Harveleigh Monte Rivera White.

Sec. 5. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of February, 1975.

S. R. 89 **RESOLUTION 6**

A JOINT RESOLUTION EXTENDING THE REPORTING DEADLINE OF THE COMMISSION ON PUBLIC AND PRIVATE SCHOOLS.

Whereas, the 1973 Session (Second Session 1974) directed the creation of a Commission on Public and Private Schools; and

Whereas, the eight-member commission thus created began meeting July 12, 1974; and

Whereas, the charge to that commission was to make a thorough study of the relationship between public and private schools, of the relationship of private schools to the office of the Superintendent of Public Instruction, and of the certification of teachers teaching in private schools; and

Whereas, the commission needs to give more consideration to the testimony presented at its public meetings by representatives of public and private schools; and

Whereas, the reporting deadline for the commission's final report was January 1, 1975; and

Whereas, an extension of this deadline is needed for the commission to complete its work;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the final reporting date of the Commission on Public and Private Schools be extended until April 1, 1975.

Sec. 2. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of February, 1975.

H. R. 66 **RESOLUTION 7**

A JOINT RESOLUTION URGING THE CONGRESS OF THE UNITED STATES AND THE UNITED STATES DEPARTMENT OF AGRICULTURE TO SIMPLIFY PROCEDURES FOR OBTAINING FOOD STAMP BENEFITS.

Whereas, the Speaker of the North Carolina House of Representatives and the President of the North Carolina Senate appointed a joint committee on the opening day of the 1975 Session of the General Assembly for the purpose of studying the economy of North Carolina; and

Whereas, a part of the committee's responsibility as outlined in the charge to the committee is examination of the conditions of groups of citizens hard hit by economic conditions and to provide recommendations for securing their relief; and

Whereas, the Food Stamp Program is one of the most important programs in North Carolina for the benefit of citizens suffering from economic distress; and

Whereas, large numbers of North Carolinians who are seeking food assistance are being delayed by unnecessarily complicated forms and procedures

which have been required by the federal government for certification and participation in the food stamp program; and

Whereas, these complex procedures are hampering North Carolina's ability to administer its food stamp program; and

Whereas, North Carolina has joined other states in requesting simplification of procedural entanglements which hamper the food stamp program, but all such requests have been denied; and

Whereas, after persons are certified for food stamp assistance, recertification is required within periods ranging from 15 days to one year with most recertification required within 90 days and such recertification is unnecessarily complicating and impairing North Carolina's capacity to provide food stamp assistance to needy people; and

Whereas, North Carolina has requested that certification periods be extended to 90 days without recertification and such request has been denied and instead a 30-day extension has been granted; and

Whereas, on November 15, 1974, North Carolina made six practical recommendations for alleviating procedural entanglements hampering qualification for food stamp programs and each suggestion was disapproved by the United States Department of Agriculture; and

Whereas, a short application form is available for applying for food stamp assistance in emergency situations and such short application would expedite certification for food stamp relief but economic recession is not considered by the United States Department of Agriculture to be a disaster, and the abbreviated form is not acceptable; and

Whereas, North Carolina shares the view that care must be exercised to assure that only qualified persons and families receive food stamp relief, but, in addition, North Carolina feels such assurance can be had without the proliferation of forms now required; and

Whereas, proliferation of bureaucratic red tape has reduced the ability of certification workers to handle case loads by fifty percent (50%) at a time when increased efficiency is needed; and

Whereas, long delays are being created in which needy people are suffering;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the North Carolina General Assembly urge the United States Department of Agriculture to immediately fashion a more simplified procedure for certifying persons and families eligible for food stamp relief.

Sec. 2. That the North Carolina General Assembly urge the United States Department of Agriculture to extend the immediate initial certification period for eligible persons and families to 90 days.

Sec. 3. That the Congress of the United States be urged to immediately enact any legislation necessary to authorize the United States Department of Agriculture to promulgate and implement simplified certification procedures and extension of certification.

Sec. 4. That a copy of this resolution be transmitted to the North Carolina Congressional delegation and to the United States Department of Agriculture, Washington, D. C.

Sec. 5. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of February, 1975.

S. R. 88 RESOLUTION 8

A JOINT RESOLUTION EXTENDING THE REPORTING DEADLINE OF THE COMMISSION FOR THE STUDY OF SOLID WASTE RECYCLING.

Whereas, the 1973 Session of the General Assembly of North Carolina (Second Session, 1974) recognized the problems created by solid waste and litter and created the Commission for the Study of Solid Waste Recycling; and

Whereas, the Commission has held 10 meetings since August 30, 1974; and

Whereas, the charge to that Commission included study of solid waste recycling, resource recovery, and litter control and the feasibility of instituting such programs in North Carolina; and

Whereas, the Commission has heard from many experts in the field and interested organizations and individuals; and

Whereas, the Commission has accumulated a vast amount of information to be considered; and

Whereas, the reporting deadline for the Commission's final report was February 1, 1975; and

Whereas, the Commission needs more time to fulfill the charge of the General Assembly;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the final reporting date of the Commission for the Study of Solid Waste Recycling be extended to April 1, 1975.

Sec. 2. This resolution shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 21st day of February, 1975.

S. R. 35 RESOLUTION 9

A JOINT RESOLUTION REQUESTING THE FEDERAL POWER COMMISSION TO GRANT EXTRAORDINARY RELIEF IN PROVIDING ADDITIONAL SUPPLIES OF NATURAL GAS FOR AGRICULTURAL USE IN THE STATE OF NORTH CAROLINA.

Whereas, the General Assembly of North Carolina would like to thank the Governor, Lieutenant Governor, Commissioner of Agriculture, Utilities Commission, and the State Energy Office for their efforts in trying to obtain the necessary natural gas supplies for the State of North Carolina; and

Whereas, natural gas is a necessity in the manufacture of nitrogen fertilizer; and

Whereas, nitrogen is not readily stored in the soil as other plant foods are, especially in eastern North Carolina, which is the State's prime farming area; and

Whereas, nitrogen fertilizers are used in substantial quantities in the production of corn, small grains, grain sorghums, cotton, tobacco, pastures, fruits, vegetables and are being increasingly used in starter fertilizers for alfalfa and soy beans; and

Whereas, this year farmers are being asked to increase production by planting more acreage, which will require more fertilizer, to prevent more food shortages and higher consumer prices; and

Whereas, recently we have seen drastic cuts in natural gas to North Carolina by Transcontinental Pipe Line, which will result in massive unemployment and agriculture being pushed completely off balance;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. There have been indications that there is no gas shortage, rather it has been contrived to bring higher prices.

Sec. 2. The North Carolina General Assembly urges the Congress to conduct a thorough investigation to determine if a shortage actually exists.

Sec. 3. The North Carolina General Assembly urges the Congress to take corrective action if such gas shortages are determined to be contrived.

Sec. 4. The Secretary of State is hereby directed to transmit certified copies of this resolution to the President of the United States, to all members of the Senate and the House of Representatives of the Congress of the United States, to the Federal Power Commission, to the United States Commissioner of Agriculture, to the Governor and Lieutenant Governor of North Carolina, to the Commissioner of Agriculture of North Carolina, to the North Carolina Utilities Commission, and to the State Energy Office.

Sec. 5. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of February, 1975.

S. R. 43 RESOLUTION 10

A JOINT RESOLUTION TO REQUEST DESIGNATION OF HONEYBEE AS SUBJECT OF COMMEMORATIVE STAMP AND TO REQUEST RALEIGH, NORTH CAROLINA, TO BE FIRST PLACE OF SALE.

Whereas, the honeybee was adopted as the official State insect of the State of North Carolina by the 1973 Session of the General Assembly of North Carolina; and

Whereas, in requesting such adoption Mr. Brady W. Mullinax and the North Carolina Beekeepers Association started a movement in which three states have now adopted the honeybee as their state insect; and

Whereas, the honeybee population is declining because of urbanization and the misuse of pesticides, with the resulting loss of honey and beeswax and reduced yield from inadequate pollination of fruits and vegetables and of flowers and shrubs; and

Whereas, concern for the honeybee which has been expressed by North Carolina and other states has created public awareness of the need to preserve and protect these valuable creatures; and

Whereas, the honeybee, which is mentioned 68 times in the Bible, is one of the finest examples of the handiwork of our Creator; and

Whereas, the honeybee is industrious, thrifty and devoted to a family structure, thus reflecting basic ideals which have been sources of our strength as a nation; and

Whereas, it would be in the best interest of this State and Nation for the honeybee to be made the subject of a commemorative stamp to be issued by the United States Postal Service;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly of North Carolina should and it does hereby request the Citizens Stamp Advisory Committee of the United States Postal Service, the Board of Governors of the United States Postal Service, and the Postmaster General of the United States to designate the honeybee as the subject of a commemorative stamp.

Sec. 2. That each of the foregoing agencies be, and they hereby are, requested to consider Raleigh, North Carolina, as a location for the stamp to be first placed on sale, in recognition of this State's leadership in honoring the honeybee as a State insect.

Sec. 3. That a copy of this resolution be transmitted by the Secretary of State to each of the foregoing agencies and to each member of this State's delegation to the United States Senate and House of Representatives.

Sec. 4. That this resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of February, 1975.

H. R. 262 RESOLUTION 14

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF HUGH STEWART JOHNSON, JR.

Whereas, the General Assembly was deeply saddened to hear of the untimely accidental death of Hugh Stewart Johnson, Jr., of Duplin County on October 1, 1974; and

Whereas, Hugh Stewart Johnson, Jr., worked tirelessly for the good of his region and for the State, having first served in the House of Representatives to fill an unexpired term in 1955, and, thereafter, having been elected and serving in the 1957, 1959, 1961, 1963, 1965, 1967, and 1969 Sessions, and various special sessions during said term of years; and

Whereas, Hugh Stewart Johnson, Jr., served on numerous committees of the General Assembly and was Chairman of the House Rules Committee during the 1967 and 1969 Sessions, and was regarded as one of the Legislature's most able students of the legislative process and the legislative parliamentary procedure; and

Whereas, Hugh Stewart Johnson, Jr., was diligent to duty, devoting long hours in legislative matters, and in working on causes and programs that would benefit eastern North Carolina and the State, including East Carolina University status, rural health care and family medicine, agricultural research, wildlife laws and strengthening the research capacity of the General Assembly; and

Whereas, Hugh Stewart Johnson, Jr., worked unselfishly for his nation and community, having served for three years in the United States Navy during World War II as a flight instructor and as a member of the Mt. Zion Presbyterian Church, as a member of the Rose Hill Board of Commissioners, as a businessman in his community, as Chairman of the Democratic Party for the

Third District, as a member of the Wallace and Duplin Hunting Clubs, and he was recognized in 1956 as Duplin County's "Man of the Year"; and

Whereas, Hugh Stewart Johnson, Jr., was married to Evelyn F. (Jackie) Johnson; and they have five children; and

Whereas, since his retirement from the General Assembly, Hugh Stewart Johnson, Jr., enjoyed his life with his family, and his hobby as a hunter, and his duties as a lobbyist, and his association with the General Assembly and leaders of the State;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That in the death of Hugh Stewart Johnson, Jr., the State of North Carolina has lost a most able, useful, and loyal citizen.

Sec. 2. That the General Assembly does hereby express its sincere appreciation and gratitude for the life and services of Hugh Stewart Johnson, Jr., as a citizen and public servant of North Carolina.

Sec. 3. That the General Assembly extends its deepest sympathy to the family of Hugh Stewart Johnson, Jr., for the loss of its distinguished member.

Sec. 4. That this resolution shall become a part of the public records of this Session of the General Assembly and a copy shall be certified by the Secretary of State and transmitted to the family of Hugh Stewart Johnson, Jr.

Sec. 5. That this resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of March, 1975.

S. R. 121 RESOLUTION 12

A JOINT RESOLUTION HONORING ASHBROOK HIGH SCHOOL OF GASTONIA FOR BEING THE DISTRICT 10 WINNER AND THE NORTH CAROLINA 4-A STATE FOOTBALL CHAMPIONS.

Whereas, the Ashbrook High School football team brought honor to Gastonia and Gaston County by being the District 10 winner and the North Carolina 4-A State football champions; and

Whereas, the Ashbrook High School football team did display great togetherness and team play to win this championship; and

Whereas, each member of the team did perform his best in the true tradition of good sportsmanship; and

Whereas, the Ashbrook High School football team did receive their inspiration and instruction from their honorable coaches and true friends, Jerry Carpenter, Gaither Cline, Bill Eccles, John Kinlaw, Robert Mason and Giles Setzer; and

Whereas, the Ashbrook High School football team has magnificently played an outstanding season under the leadership of their team captains, William Harris Kelley and Michael Jamison;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the General Assembly of North Carolina extend congratulations to the entire Ashbrook High School football team, to their coaches Jerry Carpenter, Gaither Cline, Bill Eccles, John Kinlaw, Robert Mason and Giles Setzer, and to their team captains William Harris Kelley and Michael

Jamison for the outstanding record the Ashbrook High School football team established this year; namely, being the District 10 winner and the North Carolina 4-A State football champions.

Sec. 2. That the Secretary of State forthwith send a copy of this resolution to Ashbrook High School Principal Shu Carlton, Coaches Jerry Carpenter, Gaither Cline, Bill Eccles, John Kinlaw, Robert Mason and Giles Setzer, Team Captains William Harris Kelley and Michael Jamison, and to each member of the team; and that the General Assembly directs that a copy of this resolution become a part of the permanent records of the State of North Carolina.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of February, 1975.

H. R. 214 RESOLUTION 13

A JOINT RESOLUTION COMMEMORATING THE LATE ALFONSO ELDER, EDUCATOR AND SCHOLAR.

Whereas, Dr. Alfonso Elder, a distinguished educator and scholar, died in Durham, North Carolina, on the seventh day of August, 1974; and

Whereas, Dr. Elder had served the State of North Carolina as a teacher at Bennett College, at Elizabeth City State Teachers College, and at North Carolina College at Durham, and for 15 years as President of North Carolina College at Durham, retiring from that post in 1963; and

Whereas, North Carolina Central University is celebrating this year its fiftieth anniversary as the first traditionally black State-supported senior university with a liberal arts orientation, and Dr. Elder's association with the University antedated that anniversary, having begun in 1924 and continued with but one brief interruption until the day of his death; and

Whereas, Dr. Elder's contributions to the education of men and women of his race and of all men and women had been recognized by his designation, upon his retirement, as president emeritus of North Carolina College and by the naming of the student union at North Carolina Central University the Alfonso Elder Student Union; and

Whereas, Dr. Elder's career as a teacher, dean, and college president was a fitting continuation of the career of his father, the late T. J. Elder, who almost singlehandedly built a high school in Sandersville, Georgia, in 1889 and served as its principal for 53 years; and

Whereas, an editorial in the Durham Morning Herald noting the death of Dr. Elder accurately evaluated his career in saying, "Dr. Elder leaves behind a model of service to his race and to education in North Carolina"; and

Whereas, Mrs. Louise H. Elder has provided to North Carolina Central University a fund for the awarding of the Alfonso Elder Mathematics Scholarship in memory of her late husband;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly of North Carolina express its appreciation and acknowledgment of the great service rendered to this State, and to the cause of higher education for all, by Dr. Alfonso Elder.

Sec. 2. That this resolution shall become a part of the permanent records of the 1975 Session of the General Assembly of North Carolina and copies shall be duly certified by the Secretary of State and forwarded to Mrs. Louise H. Elder and to the Board of Trustees of North Carolina Central University.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of March, 1975.

H. R. 262 RESOLUTION 14

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF HUGH STEWART JOHNSON, JR.

Whereas, the General Assembly was deeply saddened to hear of the untimely accidental death of Hugh Stewart Johnson, Jr., of Duplin County on October 1, 1974; and

Whereas, Hugh Stewart Johnson, Jr., worked tirelessly for the good of his region and for the State, having first served in the House of Representatives to fill an unexpired term in 1955, and, thereafter, having been elected and serving in the 1957, 1959, 1961, 1963, 1965, 1967, and 1969 Sessions, and various special sessions during said term of years; and

Whereas, Hugh Stewart Johnson, Jr., served on numerous committees of the General Assembly and was Chairman of the House Rules Committee during the 1967 and 1969 Sessions, and was regarded as one of the Legislature's most able students of the legislative process and the legislative parliamentary procedure; and

Whereas, Hugh Stewart Johnson, Jr., was diligent to duty, devoting long hours in legislative matters, and in working on causes and programs that would benefit eastern North Carolina and the State, including East Carolina University status, rural health care and family medicine, agricultural research, wildlife laws and strengthening the research capacity of the General Assembly; and

Whereas, Hugh Stewart Johnson, Jr., worked unselfishly for his nation and community, having served for three years in the United States Navy during World War II as a flight instructor and as a member of the Mt. Zion Presbyterian Church, as a member of the Rose Hill Board of Commissioners, as a businessman in his community, as Chairman of the Democratic Party for the Third District, as a member of the Wallace and Duplin Hunting Clubs, and he was recognized in 1956 as Duplin County's "Man of the Year"; and

Whereas, Hugh Stewart Johnson, Jr., was married to Evelyn F. (Jackie) Johnson; and they have five children; and

Whereas, since his retirement from the General Assembly, Hugh Stewart Johnson, Jr., enjoyed his life with his family, and his hobby as a hunter, and his duties as a lobbyist, and his association with the General Assembly and leaders of the State;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That in the death of Hugh Stewart Johnson, Jr., the State of North Carolina has lost a most able, useful, and loyal citizen.

Sec. 2. That the General Assembly does hereby express its sincere appreciation and gratitude for the life and services of Hugh Stewart Johnson, Jr., as a citizen and public servant of North Carolina.

Sec. 3. That the General Assembly extends its deepest sympathy to the family of Hugh Stewart Johnson, Jr., for the loss of its distinguished member.

Sec. 4. That this resolution shall become a part of the public records of this Session of the General Assembly and a copy shall be certified by the Secretary of State and transmitted to the family of Hugh Stewart Johnson, Jr.

Sec. 5. That this resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of March, 1975.

S. R. RESOLUTION 15

A JOINT RESOLUTION EXTENDING THE REPORTING DEADLINE OF THE NORTH CAROLINA PESTICIDE AND STRUCTURAL PEST STUDY COMMISSION.

Whereas, the 1973 Session (Second Session 1974) directed the creation of a Commission to study the North Carolina Pesticide Law of 1971 and the North Carolina Structural Pest Law of 1955; and

Whereas, the eight-member Commission thus created began meeting September 19, 1974; and

Whereas, the charge to that Commission was to make a thorough study into and recommend General Statutes changes necessary including funding required to implement the recommended changes in the North Carolina Pesticide Law of 1971 and the North Carolina Structural Pest Law of 1955, and to make its report to the General Assembly and to the Governor; and

Whereas, the Commission needs to give more consideration to the testimony presented at its public meetings; and

Whereas, the reporting deadline for the Commission's report or interim report is 15 days after the convening of the 1975 General Assembly; and

Whereas, an extension of this deadline is needed for the Commission to complete its work;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the reporting or interim reporting date of the North Carolina Pesticide and Structural Pest Study Commission be extended until April 1, 1975.

Sec. 2. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of March, 1975.

S. R. 205 **RESOLUTION 16**

A JOINT RESOLUTION CONGRATULATING I. D. BLUMENTHAL ON HIS EIGHTIETH BIRTHDAY.

Whereas, I. D. Blumenthal was born on September 4, 1894, in the State of Georgia and came to Charlotte, North Carolina, in the early 1920's to begin a long and successful association with the Radiator Specialty Company and rose to the rank of President and Chairman of the Board of the Charlotte and Toronto, Ontario, Canada Divisions of that company; and

Whereas, Mr. Blumenthal's Radiator Specialty Company is an international organization which has developed under his management from a two-man operation in the 1920's into a leader in the industry whose trademark "Solder Seal" is known throughout the world; and

Whereas, Mr. Blumenthal has surrounded himself with capable business associates who have taken over the details of the day-to-day operation of his great interests which factor has enabled him to devote more time to acts of community service which are so numerous that only a partial listing can be provided here as follows: Mr. Blumenthal is a member of the Charlotte Chamber of Commerce and served on its National Affairs Committee in 1949; he has served on the Parks and Recreation Commission of the City of Charlotte; he has served as a member of the Board of Directors of the Carolina Spastics Association; he is presently a member of the Board of Directors of the National Conference of Christians and Jews, United Community Foundation, Inc., and Charlotte Civitan Club; he has attained the rank of Thirty-Second Degree Mason and is an honorary member of the Charles M. Setzer Lodge No. 693; he is a member of the National Executive Committee of the B'nai B'rith Institutes of Judaism for Adults; he is Honorary Life President of Temple Israel in Charlotte; he is a member of the American Legion; he is a founding member of Temple Beth El and is Chairman of the Board of the North Carolina Association of Jewish Men and originator of the Circuit Riding Rabbi Project; he is organizer and past President of the Charlotte Federation of Jewish Charities and President of the North Carolina Jewish Home for the Aged, Inc., Clemmons, North Carolina; he is a founding member of the North Carolina State organization of the National Conference of Christians and Jews and founder of the Blumenthal Foundation for charity, religion, education and better interfaith relations; and

Whereas, Mr. Blumenthal has never restricted himself to a perfunctory membership in the many organizations with which he has been associated but, rather, has actively sought the funding of these worthy projects from others and given freely of his own time and money to insure their success through his diligent support and great financial contributions to these religious and civic organizations and through outright contributions to their projects, building funds, and through the establishment of endowments for their continued support; and

Whereas, a major philanthropy for which Mr. Blumenthal should be recognized is his dedication of his beautiful Wildacres Estate in the Blue Ridge Mountains of North Carolina for use by church and civic groups for their

endeavors, most notable of which is the Civitan Youth Conferences in Human Relations which are held each summer at Wildacres since 1949;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly of North Carolina congratulates I. D. Blumenthal on the occasion of his eightieth birthday; expresses its gratitude to him for his contributions to the State of North Carolina and its affection for him as a person; and extends its best wishes to him for many more years of happy fellowship with us and the State which he has served so well.

Sec. 2. The Secretary of State shall cause a certified copy of this resolution to be sent to I. D. Blumenthal.

Sec. 3. This resolution shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 12th day of March, 1975.

S. R. 182 RESOLUTION 17

A JOINT RESOLUTION DESIGNATING MARCH 18, 1975, AS MAYORS' DAY IN NORTH CAROLINA.

Whereas, the towns and cities of North Carolina created by the General Assembly face today many of the same financial and related problems as the General Assembly is facing; and

Whereas, our towns and cities are attempting to resolve some of their critical problems by adoption, through the North Carolina League of Municipalities, of their 1975 Municipal Legislative Goals and Policy; and

Whereas, the Mayors and other leaders of our towns and cities, in furtherance of their Legislative Goals and Policy, will convene a legislative conference in the City of Raleigh on March 18, 1975;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That this General Assembly does hereby extend to our Mayors and other municipal leaders its best wishes for success in their forthcoming legislative conference, and does hereby proclaim March 18, 1975, as Mayors' Day in North Carolina.

Sec. 2. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of March, 1975.

S. R. 284 RESOLUTION 18

A JOINT RESOLUTION HONORING THE LIFE, SERVICE AND MEMORY OF J. CARLTON PITTMAN.

Whereas, J. Carlton Pittman, one of North Carolina's most distinguished citizens, died on February 13, 1975, the General Assembly, in recognization of the deep debt which this State and its people owe to him, desire to honor his life, his service and memory; and

Whereas, J. Carlton Pittman was born on February 25, 1900, in Gates County, North Carolina, the son of Thomas and Stella Pittman; and

Whereas, he graduated from the University of North Carolina Law School in 1920 and was licensed to practice law upon his 21st birthday and immediately began practicing in Woodland, North Carolina, with Judge W. H. S. Burgwyn, Sr., remaining there for one year; moving his law practice to Sanford, North Carolina, on January 1, 1922; became Judge of the Lee County Criminal Court in 1928, and in the period from 1927 to 1945 served as city attorney for the town of Sanford and as county attorney for Lee County; and

Whereas, after his election to the General Assembly in 1936, J. Carlton Pittman served in the special session which was called, and was re-elected in 1937, 1938, 1941, 1945 and 1949; and

Whereas, in the 1949 Session of the General Assembly, Judge Pittman served as President Pro Tempore of the Senate and also served as a Judge of the Superior Court in 1962; and

Whereas, Judge Pittman also served the people of North Carolina by his service as Chairman of the Lee County Board of Elections, President of the Eleventh District Bar Association, Vice President of the North Carolina Bar Association, member of the North Carolina Bar Council, Chairman of the Lee County Democratic Executive Committee, and as a member of the Board of Trustees of the University of North Carolina at Chapel Hill; and

Whereas, while in the General Assembly, Judge Pittman's great interest in education led him to introduce the measures which resulted in educational television in North Carolina; and

Whereas, J. Carlton Pittman devoted his full life to public service, and his contributions to his community, his State and nation are a symbol of a devoted career as a citizen and public servant to be long remembered in the distinquished history of this State;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the General Assembly honors the memory of J. Carlton Pittman and expresses the deep gratitude and appreciation of this State and its citizens for his life and service to North Carolina.

Sec. 2. That a certified copy of this resolution be transmitted by the Secretary of State to the family of J. Carlton Pittman.

Sec. 3. That this resolution shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of March, 1975.

H. R. 406 RESOLUTION 19

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF G. TROY PAGE, FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, G. Troy Page, a former distinguished Representative from Johnston County in the General Assembly, died at Johnston Memorial Hospital in Smithfield, Johnston County, on the 4th day of February, 1975, following a period of declining health; and

Whereas, in the passing of G. Troy Page, North Carolina and Johnston County lost one of their most beloved and respected citizens; and

Whereas, G. Troy Page served with honor and distinction in the North Carolina House of Representatives representing the Fourteenth District in 1947, 1948, 1949, 1950 and 1951; and

Whereas, G. Troy Page was born in Rockingham County in 1897, the son of the late William and Martha Elizabeth Setliff Page; and

Whereas, G. Troy Page gave of his time and talents as he served faithfully, diligently and effectively in many public posts of honor and trust in Johnston County and the State, among them being director of the Atlantic and East Carolina Railroad during the administration of former Governor Terry Sanford, serving on the Clayton Board of Commissioners in the 1950's, being a director of the Raleigh Savings and Loan Association, being a former director of the Clayton Chamber of Commerce, a past president of the Clayton Rotary Club, and a member of the Masonic Order; and

Whereas, G. Troy Page served with great efficiency and dedication as a deacon, trustee, and Sunday School superintendent of the First Baptist Church of Clayton and had been a member of the General Board of the Baptist State Convention; and

Whereas, G. Troy Page served his State and nation in the U. S. Navy during World War I; and

Whereas, G. Troy Page served his family well as a merchant, farmer, civic leader and church leader; and

Whereas, he is survived by his widow, Mrs. Minnie Cox Page and one son, Troy Page, Jr., of Raleigh; and

Whereas, the General Assembly desires to honor the memory of G. Troy Page and express its sympathy to the surviving members of his family;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly recognizes and expresses its appreciation for the public service rendered by G. Troy Page which has contributed to the betterment of the State of North Carolina.

Sec. 2. That the General Assembly extends its sincere sympathy to the family of G. Troy Page in the loss of its distinguished and outstanding former member.

Sec. 3. That this resolution shall be a part of the public records of this session of the General Assembly and that a copy shall be duly certified by the Secretary of State and transmitted to the family of G. Troy Page.

Sec. 4. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of March, 1975.

S. R. 273 RESOLUTION 20

A JOINT RESOLUTION HONORING RONNIE MILSAP ON BEING SELECTED MALE VOCALIST OF THE YEAR BY THE COUNTRY MUSIC AWARDS ASSOCIATION.

Whereas, Ronnie Milsap, a native of Robbinsville, in Graham County, North Carolina, was selected Male Vocalist of the Year by the Country Music Awards Association; and

Whereas, he has been blind since birth, but mastered the violin by the age of seven, the piano by the age of eight, and the guitar by the age of twelve; and

Whereas, his musical career followed an inspiring academic record which began at The Governor Morehead School in Raleigh and culminated at Young-

Harris Junior College where he studied pre-law and was granted a full scholarship to Emory University School of Law; and

Whereas, his love of music won over a legal career, and he became a successful recording artist for RCA, bringing joy to many, much of which was directly attributable to his dedication and perseverance;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the General Assembly of North Carolina does hereby express its great pride in Ronnie Milsap and expresses its appreciation for the joy he brings to many citizens in North Carolina, his native State.

Sec. 2. That certified copies of this resolution be sent to Mr. Ronnie Milsap; his grandfather, Mr. Homer Frisbee, in Hayesville, North Carolina; and the Governor Morehead School in Raleigh.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of March, 1975.

S. R. 338 RESOLUTION 21

A JOINT RESOLUTION CONGRATULATING THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL BASKETBALL TEAM.

Whereas, the University of North Carolina basketball team has just won the Atlantic Coast Conference Tournament and earned the right to represent the Atlantic Coast Conference in the NCAA Tournament; and

Whereas, the Tarheels are rated in the top 10 by both the United Press International and Associated Press polls; and

Whereas, a native son of this State, namely Phil Ford of Rocky Mount, received the Everett N. Case Award as the Most Valuable Player in the Atlantic Coast Conference Tournament as voted by the league's coaches; and

Whereas, Phil Ford and Mitch Kupchak were voted to the All Atlantic Coast Conference Tournament Team; and

Whereas, another native son, Walter Davis of Pineville, played an outstanding tournament, especially in the first round against Wake Forest in which he scored 31 points to lead a comeback victory by the Tarheels; and

Whereas, all the members of the Tarheels made key contributions during the regular season, including the group of substitutes known as the "Big Blue Team"; and

Whereas, the Tarheels will represent the Atlantic Coast Conference and the State of North Carolina against New Mexico State on Saturday, March 16, 1975, in the first round of NCAA Tournament competition;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That this august body do honor and pay tribute to these outstanding achievements by University of North Carolina student-athletes and coaches and lends its support and encouragement to the Tarheels in the NCAA Tournament.

Sec. 2. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of March, 1975.

H. R. 472 **RESOLUTION 22**

A JOINT RESOLUTION HONORING AND COMMENDING THE NORTH CAROLINA STUDENT LEGISLATURE FOR ITS EXCELLENCE AS AN EDUCATIONAL OPPORTUNITY FOR THE FUTURE LEADERS OF THE STATE OF NORTH CAROLINA.

Whereas, the North Carolina Student Legislature is an educational, nonpartisan mock legislative assembly; and

Whereas, the North Carolina Student Legislature represents approximately 40 colleges, universities, technical schools and community colleges in North Carolina; and

Whereas, the North Carolina Student Legislature serves a dual function, as it provides the students of this State with an unprecedented educational experience, while seeking to promote constructive and progressive change; and

Whereas, the North Carolina Student Legislature, in its thirty-eighth year of existence, is the longest continuing state student legislature in the nation; and

Whereas, the week of March 17 through March 23 has been declared as North Carolina Student Legislature Week in coordination with the NCSL's annual legislative session by Governor James E. Holshouser;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the North Carolina General Assembly goes on record as commending the North Carolina Student Legislature on its excellence as an educational opportunity for the future leaders of this State.

Sec. 2. That a copy of this resolution be duly certified by the Secretary of State and transmitted to the Governor of the North Carolina Student Legislature, Carl Gullick of Durham.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of March, 1975.

H. R. 311 **RESOLUTION 23**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF MONROE EVANS GARDNER, PROFESSOR OF HORTICULTURE AT NORTH CAROLINA STATE UNIVERSITY.

Whereas, Monroe Evans Gardner, as a teacher, scientist and humanitarian, was a man who loved the soil and inspired others to share this devotion; and

Whereas, North Carolina has lost a pioneer in the development of its valuable horticultural enterprises, a man committed to the advancement of North Carolina's economy and the people, a gentle but forceful leader whose keen vision foresaw the potential for horticulture in this State and dedicated a half-century of his life to nurture its fruition; and

Whereas, Professor Monroe Evans Gardner served with distinction on the faculty of North Carolina State University for 38 years as a horticulturalist with the North Carolina Agricultural Experiment Station, as an outstanding teacher whose love for students and their welfare brought him their highest respect and affection and served as head of the Department of Horticultural Science for a quarter of a century during which a fledgling program under his

leadership grew to a high competence in instruction, research, and in service to the State of North Carolina; and

Whereas, this native Virginian was a champion of North Carolina's agricultural development and the advancement of science initiating and leading the movement that led to the first direct appropriation for agricultural research made by the North Carolina General Assembly; and

Whereas, Professor Gardner extended his expertise beyond the University in the encouragement of the fullest development of the State's horticultural interests as the driving force in the organization of the North Carolina Association of Nurserymen, the North Carolina Commercial Flower Growers, and the North Carolina Apple Growers Association; and

Whereas, students, fellow faculty members and administrators at North Carolina State University have honored him with good teaching awards and with the dedication of an Arboretum as a lasting memorial; the Southern Section for Horticultural Science has honored him with the L. M. Ware Distinguished Teaching Award, and by his election as a Fellow by the American Society for Horticultural Science, Professor Gardner received high recognition by his profession;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That in the death of Monroe Evans Gardner, the State of North Carolina has lost an outstanding citizen and educator.

Sec. 2. That the General Assembly expresses appreciation to the family of Monroe Evans Gardner for the great service he rendered his State and nation in agricultural development and research and in the advancement of science.

Sec. 3. That a copy of this resolution be duly certified by the Secretary of State and transmitted to the family of Monroe Evans Gardner; his sons, Monroe Evans Gardner, Jr., of Raleigh and Charles E. Gardner of West Jefferson.

Sec. 4. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of March, 1975.

H. R. 349 RESOLUTION 24

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF CARL GOERCH.

Whereas, this body has learned with extreme regret of the death of Carl Goerch; and

Whereas, Carl Goerch was born in Tarrytown, New York, on June 10, 1891; and

Whereas, Carl Goerch received his education at the public schools of Tarrytown, graduating from its Washington Irving High School; and

Whereas, Carl Goerch, after deciding to go into newspaper work, worked on The Washington Daily News, in Washington, North Carolina, for four years until the paper was sold in 1920; and

Whereas, in 1925, Carl Goerch bought The Progress, a weekly newspaper, and ran it until 1933; and

Whereas, in 1933, Carl Goerch sold The Progress, moved to Raleigh, and went with The Durham Life Insurance Company, broadcasting for them over radio station WPTF in a series of programs, "Doings of the Legislature"; and

Whereas, Carl Goerch covered 14 regular sessions and three extra sessions; and

Whereas, Carl Goerch served as Reading Clerk for the House of Representatives during the 1953 Session; and

Whereas, Carl Goerch, also in 1933, started a publication of The State Magazine; and

Whereas, Carl Goerch, also in 1933, started a series of Sunday night broadcasts entitled "Carolina Chats" which ran on WPTF for 28 years until its last broadcast on September 10, 1961; and

Whereas, Carl Goerch, in 1937, began a "Man on the Street" program which was broadcast from the front of the Wake County Courthouse every Saturday; and

Whereas, Carl Goerch has done a considerable amount of public speaking over the years to various civic organizations and other groups in many of the counties and communities of North Carolina; and

Whereas, Carl Goerch has had numbers of feature articles published in national magazines and various newspapers and is a noted author of some half dozen books on North Carolina subjects; and

Whereas, Carl Goerch was wed in 1916 to Sibyl Wallace, a teacher in the Orange, Texas, school system; and

Whereas, Carl Goerch is survived by two daughters, Mrs. Harry Horton and Mrs. E. K. Powe; and

Whereas, the Joint General Assembly of North Carolina desires to commemorate the life of Carl Goerch in his services to his State and to express its deep sorrow sustained by his death;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That in the death of Carl Goerch, the State of North Carolina has lost an able, loyal and devoted citizen, and the General Assembly by this resolution wishes to give expression of its deep and sincere appreciation of his life and character and its gratitude for his service.

Sec. 2. The Secretary of State is directed to forward certified copies of this resolution to his two daughters.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of March, 1975.

H. R. 350 RESOLUTION 25

A JOINT RESOLUTION CONGRATULATING AND COMMENDING THE BASKETBALL TEAM AT THE NORTH CAROLINA SCHOOL FOR THE DEAF IN MORGANTON FOR ITS OUTSTANDING PERFORMANCE IN WINNING THE 1975 MASON-DIXON BASKETBALL TOURNAMENT CHAMPIONSHIP. THE NORTH CAROLINA SCHOOL FOR THE DEAF HAS WON THE TOURNAMENT CHAMPIONSHIP TWO CONSECUTIVE YEARS, 1974 AND 1975; AN ACCOMPLISHMENT NO OTHER SCHOOL HAS DONE IN THE TOURNAMENT'S TWENTY-THREE YEAR HISTORY.

Whereas, the basketball team of the North Carolina School for the Deaf (N. C. S. D.) in Morganton has maintained an outstanding record during its twenty-three year existence and participation in the Mason-Dixon Basketball Tournament, the largest single athletic event among schools for the deaf in the United States, having won the championship in 1953, 1955, 1956, 1958, and 1974 and placed second in 1972 and third in 1973; and

Whereas, the 1974-75 basketball team of the North Carolina School for the Deaf composed of Charles Dawkins of Randleman; James Wilson of Gastonia; Craig Brown and Jerome Brown of Raleigh; Jerome Moore of Burgaw; Ricky Cordell of Morganton; J. J. (Marvin) Williams of Asheboro; Leslie Atkinson of Goldsboro; Mike Banks of Greensboro; Lee Newsome of Fayetteville; Don Wells of Stedman, Statistician; Vaughn Buchanan of Stanley, Manager; Tom Maye, Acting Head Coach; and Bill Thompson, Assistant Coach, competing against teams from 10 states, won the 1975 championship and became the only school to win consecutive championships (N. C. S. D. has done this twice; 1955, 1956 and 1974, 1975) in the twenty-three year history of the tournament; and

Whereas, the high performance and sportsmanship of this team, and each member thereof, has brought honor to the North Carolina School for the Deaf and to the entire State of North Carolina;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly of North Carolina, on behalf of the people of North Carolina, congratulates and commends the basketball team and the coaches of the North Carolina School for the Deaf for their achievement in winning the 1975 Mason-Dixon Basketball Tournament Championship and likewise congratulates and commends the North Carolina School for the Deaf for its past and present contributions in athletic achievement.

Sec. 2. That a certified copy of this resolution be prepared by the Secretary of State and sent to each individual named herein, and to Mr. Don Westmoreland, Athletic Director for the North Carolina School for the Deaf, for appropriate display as symbols of the appreciation and pleasure of this General Assembly and the people of North Carolina in their accomplishments, and that this resolution be made a part of the permanent records of the 1975 General Assembly.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of March, 1975.

H. R. 357

RESOLUTION 26

A JOINT RESOLUTION CONGRATULATING AND COMMENDING THE JOHN A. WILKINSON HIGH SCHOOL BASKETBALL TEAM OF BELHAVEN FOR ITS PERFORMANCE AND SPORTSMANSHIP IN WINNING THE STATE 1-A CONFERENCE BASKETBALL CHAMPIONSHIP.

Whereas, the John A. Wilkinson High School basketball team brought honor to Belhaven and Beaufort County by winning the North Carolina State 1-A Championship; and

Whereas, the John A. Wilkinson High School basketball team did display great togetherness and team play to win this championship; and

Whereas, the team also won the Beaufort-Hyde-Martin County Basketball Tournament and the District Tournament; and

Whereas, each member of the team, Ruddie Borden, Michael Credle, Nathan Ebron, Perry Ebron, Von Topping, Grover Burrus, William Gibbs, David Guthrie, Gerald Harris, Hubert Harthorne, Milton Moore, Milton Satchell, J. C. Spencer, Kenneth Ward and Anthony Winfield, did perform his best in the true tradition of good sportsmanship; and

Whereas, the members of the basketball team received bountiful support from fellow students and faculty members at John A. Wilkinson High School and from the citizens of Belhaven and Beaufort County; and

Whereas, the John A. Wilkinson High School basketball team did receive inspiration and instruction from the coach of the team, Douglas Barnes, and assistant coach, John Britt;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly of North Carolina extends congratulations to the entire basketball team, Coach Douglas Barnes, Assistant Coach John Britt, and Principal Linville Midgette of John A. Wilkinson High School in Belhaven for the outstanding season the John A. Wilkinson High School basketball team has had this year and for winning the North Carolina State 1-A Basketball Championship.

Sec. 2. That the Secretary of State send a copy of this resolution to Principal Linville Midgette, Coach Douglas Barnes, Assistant Coach John Britt, and each member of the team; and that the General Assembly directs that a copy of this resolution become a part of the permanent records of the State of North Carolina.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of March, 1975.

S. R. 421 **RESOLUTION 27**

A JOINT RESOLUTION FIXING THE TIME AND PLACE FOR A JOINT SESSION OF THE SENATE AND HOUSE OF REPRESENTATIVES TO ACT ON CONFIRMATION OF APPOINTMENTS MADE BY THE GOVERNOR TO MEMBERSHIP ON THE STATE BOARD OF EDUCATION.

Whereas, under the provisions of G.S. 115-2, appointments made by the Governor to membership on the State Board of Education are subject to confirmation by the Senate and House of Representatives in joint session; and

Whereas, the Governor has submitted to the presiding officers of the Senate and House of Representatives a list of two appointments to membership on the State Board of Education; and

Whereas, the Senate Committee on Education and the House Committee on Education have considered the list of appointees submitted by the Governor and have reported their recommendations to their respective houses;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the Senate and House of Representatives meet in joint session on Thursday, the 27th day of March, 1975, at 1:30 p.m., in the House Chamber, for the purpose of voting on confirmation of the appointments of the Governor to membership on the State Board of Education.

Sec. 2. Proceedings in the joint session shall be governed by the provisions of the Rules of the North Carolina House of Representatives, so far as those Rules may be applicable.

Sec. 3. This resolution shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of March, 1975.

S. R. 380 **RESOLUTION 28**

A JOINT RESOLUTION DESIGNATING APRIL 9, 1975, AS BATAAN DAY AND MAY 6, 1975, AS CORREGIDOR DAY.

Whereas, this great nation is on the eve of its Bicentennial Celebration; and

Whereas, we of the American Defenders of Bataan and Corregidor have played a significant part in the preservation of this great nation; and

Whereas, April 9th and May 6th mark the anniversaries of the end of the epic struggles of American forces and Filipino forces on Bataan and Corregidor; and

Whereas, Bataan and Corregidor symbolize the spirit which moves men of different races and different creeds to fight shoulder to shoulder for their freedom;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That April 9th is hereby designated as Bataan Day and May 6th is hereby designated as Corregidor Day, and the Governor is requested to issue a proclamation calling upon the people of North Carolina to observe such days with appropriate ceremonies and activities in schools, churches and other

appropriate places, such as civic clubs, lodges, and all public and private meeting places so that the nation may honor these gallant defenders by making an effort to perpetuate their ideals.

Sec. 2. This resolution shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 8th day of April, 1975.

S. R. 465 RESOLUTION 29

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF FREDERICK POPE PARKER, JR., FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, the General Assembly was deeply saddened to hear of the untimely death of Frederick Pope Parker, Jr., of Wayne County on February 6, 1975; and

Whereas, Frederick Pope Parker, Jr., worked tirelessly for the good of his region and for the State and faithfully served his county and the State, having served as a member of the 1931 House of Representatives and as County Attorney of Wayne County for 39 years; and

Whereas, Frederick Pope Parker, Jr., was a founding member and past President of the North Carolina Association of County Attorneys and was the recipient in 1964 of the association's annual "Outstanding North Carolina Attorney" award, and was a member and past President of the National Association of County Civil Attorneys, and was serving on the board of directors of this association; and was known throughout North Carolina as "Mr. County Attorney"; and

Whereas, Frederick Pope Parker, Jr., was a member of the Wayne County, Eighth District, North Carolina, North Carolina State Bar and American Bar Associations; was past Chairman of several committees of the American Bar Association; and was currently Chairman of the American Bar Association's Committee on Civil Attorneys; and

Whereas, Frederick Pope Parker, Jr., was a member of the First Presbyterian Church in Goldsboro, North Carolina, having taught Sunday School for a number of years and having served as Sunday School Superintendent for 18 years; was past Chairman of the Board of Deacons and for many years served as a member and Clerk of the Session of the First Presbyterian Church; and was a past Moderator of the Albemarle Presbytery; and

Whereas, Frederick Pope Parker, Jr., was past Chairman of the Goldsboro Salvation Army Advisory Board and a member of that board for 22 years; and was long-time Chairman of the Goldsboro Council of the U.S.O.; and was past Exalted Ruler of the Goldsboro Elks Lodge and was past Noble Grand of the Odd Fellows Neuse Lodge #6; and

Whereas, Frederick Pope Parker, Jr., was a member and past President of the Wayne Young Democrats Club and had received the Club's annual "Outstanding Citizen of the Year" award; and

Whereas, Frederick Pope Parker, Jr., was past Master of Goldsboro Masonic Lodge and was past High Priest of the Goldsboro Royal Arch Masons and was a member of Sudan Temple; and

Whereas, Frederick Pope Parker, Jr., served as Chairman of the Wayne County Morehead Scholarship Committee since the establishment of these scholarships at the University of North Carolina; and

Whereas, Frederick Pope Parker, Jr., was married to Mary B. Parker and they have three children;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the General Assembly expresses its appreciation for the public service rendered by Frederick Pope Parker, Jr., with full knowledge that his service has contributed to the betterment of Wayne County and the State of North Carolina.

Sec. 2. That this resolution shall become a part of the public records of the 1975 Session of the General Assembly, and the Secretary of State shall cause a certified copy to be transmitted to Mrs. Frederick Pope Parker, Jr.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of April, 1975.

H. R. 362 RESOLUTION 30

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF GEORGE HUNTER WARLICK, FORMER MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES.

Whereas, George Hunter Warlick, son of Charles C. and Madge Jefferson Warlick, was born on August 1, 1931, in Gaston County, and died of cancer October 5, 1974, in Hickory, North Carolina, after a lifetime of service to his community, his county and his State; and

Whereas, George Hunter Warlick graduated from King's Mountain High School in 1949, obtained the degree of Bachelor of Arts from Davidson College in 1957 and the L.L.B. degree from the Duke University School of Law in 1960; and

Whereas, George Hunter Warlick was an acclaimed scholar, as evidenced by his graduating at the head of his law class and by his membership in the Order of the Coif and his selection to the staff of the Duke Law Journal as Associate Editor of that esteemed publication, and as evidenced by his lucidity, keen insight and acute perception while a lecturer in Business Law at the Lenoir Rhyne College Evening Program, 1966-1967, and while a North Carolina consultant for the Boston College Industrial and Commercial Law Review; and

Whereas, in addition to serving his country as a petty officer, 2nd class in the U. S. Navy, 1951-1954, being a Korean combat veteran, and in addition to being active throughout his life in numerous civic organizations, George Hunter Warlick was an outstanding North Carolinian, a practicing attorney in Hickory, who represented the Thirty-Seventh District, Catawba County, in the House of Representatives since 1969, and because of ill health, had announced that he would not seek reelection this year; and

Whereas, George Hunter Warlick's effectiveness as a legislator is witnessed by the fact that he is the only Republican to get a Constitutional Amendment passed during the entire twentieth century, and is the author of pioneering legislation such as the artificial insemination bill - a subject to which many states have not addressed themselves, as well as being North Carolina House

Minority Leader over the largest Republican delegation and serving on the House Appropriation, Finance, Higher Education, Highway Safety, Constitutional Amendment, Banks and Banking and Judiciary Committees; and

Whereas, in addition to his legislative activities George Hunter Warlick served as a member of the Law and Order Commission, Western Piedmont Council of Governments, the State Advisory Budget Committee and as a member of the North Carolina Local Government Study Commission, where due to his exceptional understanding of law and government, he was instrumental in the successful efforts to strengthen and expand the framework of laws under which the cities and towns of North Carolina operate, being a leading advocate of the amendment to the Constitution of North Carolina to establish standards governing the incorporation of new towns and cities; and

Whereas, George Hunter Warlick was an active member of St. Luke's United Methodist Church of Hickory, where he was president of the Methodist Men in 1965 and served as chairman of the Long Range Planning Committee; and

Whereas, George Hunter Warlick is survived by his beloved Anna Grace Dell Warlick, his bride and cherished companion since March 24, 1962, and their two daughters, Cherrie Dell Warlick and Anna Patterson Warlick; and

Whereas, the General Assembly wishes to record its appreciation of the full and rewarding life and service of George Hunter Warlick to his community, State and nation, and to express its sympathy to his family;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That in the death of George Hunter Warlick, the State of North Carolina has lost one of its most able and conscientious and useful citizens and public servants.

Sec. 2. That the General Assembly does hereby express its appreciation and gratitude for the life and career of and contributions made by George Hunter Warlick.

Sec. 3. That the General Assembly of North Carolina extends its sincere sympathy to the family of George Hunter Warlick in the loss of its distinguished and outstanding member.

Sec. 4. That this resolution shall be a part of the public records of this Session of the General Assembly of North Carolina and that a copy shall be duly certified by the Secretary of State and transmitted to the family of George Hunter Warlick.

Sec. 5. That this resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of April, 1975.

H. R. 447 **RESOLUTION 31**

A JOINT RESOLUTION COMMEMORATING THE SEVENTY-FIFTH BIRTHDAY OF HOWELL JOHN HATCHER, FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, Howell John Hatcher, was born in Carroll County, Virginia, on March 13, 1900, and celebrated his seventy-fifth birthday on March 13, 1975; and

Whereas, Mr. Hatcher, better known across North Carolina as "Doggie", has devoted a lifetime of unselfish and distinguished service to the State of North Carolina and his country; and

Whereas, Mr. Hatcher graduated from Mt. Airy High School, Trinity College (now Duke University) and Duke University Law School, and while attending Trinity College he played four years of football and was selected as an All Southern Conference tackle; and

Whereas, after passing the North Carolina bar in 1924, Mr. Hatcher served as a football coach and athletic director before entering private law practice; and

Whereas, Mr. Hatcher has had a distinguished career as an attorney, serving as a judge and President of the Burke County Bar Association and as Chief Counsel on the Committee on Investigations for the U. S. Senate, 1949-1953; and

Whereas, Mr. Hatcher served more than 30 years of military service, serving first as a private and finally as a Brigadier General with the National Guard. While serving in World War II he received four American decorations, three foreign decorations, and five battle stars; and

Whereas, Mr. Hatcher has given dedicated public service to the State of North Carolina serving as a Representative in the General Assembly from 1935 to 1937, and in the Senate 1941 to 1943 and again in 1963. He served as Commander of the State Highway Patrol from 1945 to 1949; and

Whereas, Mr. Hatcher has also engaged in an active career as a civic leader as a Woodman of the World, as a Mason, a member of Knights of Pythias, Loyal Order of Moose, and as President of the Kiwanis Club; and

Whereas, he was married to Faith Adair on January 27, 1927, and has two sons, Howell J., Jr., and Franklin Adair;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly of North Carolina does express its appreciation to Howell John Hatcher as an outstanding public servant and a loyal citizen, and does congratulate him on his seventy-fifth birthday.

Sec. 2. That a copy of this resolution be sent to Mr. Hatcher at his address, Box 666, Morganton, North Carolina.

Sec. 3. That this resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of April, 1975.

S. R. 129 **RESOLUTION 32**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF CHAMPION MCDOWELL DAVIS.

Whereas, one of North Carolina's most beloved and illustrious citizens, Champion McDowell Davis, after a long and industrious career, departed this life in Wilmington on January 28, 1975; and

Whereas, Champion McDowell Davis was born in Catawba County, North Carolina, near Hickory, on July 1, 1879, the son of Robert Burns Davis, who served as a captain in the Army of Northern Virginia during the War Between the States and Cornelia Nixon Davis, a fifth daughter of Mr. and Mrs. Nicholas N. Nixon, who established Porter's Neck Plantation; and

Whereas, after his education in the public schools, Mr. Davis started work on March 1, 1893, as a 14-year-old messenger boy with the former Wilmington and Weldon Railroad, which became a part of the Atlantic Coast Line Railroad Company; working his way to the top, Mr. Davis was elevated to the presidency of the railroad on October 15, 1942, and served in this capacity until his retirement, having served the Coast Line for 64 years; and

Whereas, Mr. Davis' service with the railroad was only interrupted by the Spanish-American War when he served as a corporal in the Second Regiment North Carolina Infantry and later as a captain in the North Carolina State Guard; and

Whereas, Mr. Davis served on the Southern Freight Traffic Commission of the United States Railroad Administration and in addition to being President, he was an officer of the several railroad subsidiaries or affiliates of the Atlantic Coast Line, including terminal companies, union station corporations and land development companies with which companies he severed all connections on his retirement; and

Whereas, Mr. Davis served his country and State with fidelity and in his retirement, a time when most men tend to relax and slow down, he began a philanthropic contribution to the care of his fellow man in the establishment of a charitable foundation by constructing and operating a non-profit, non-denominational nursing home for the elderly at Porter's Neck Plantation and the formation of the Champion McDowell Davis Charitable Foundation was announced on November 16, 1963; and

Whereas, the nursing home, named in honor of Mr. Davis' mother, Cornelia Nixon Davis, was begun in June, 1965, and completed in the summer of 1966, and has since been expanded, climaxing a ten-year building program; in addition to the Davis Foundation providing funds in securities and 85 acres of land, numerous contributions have been made from other foundations and endowments, and as a result of these efforts, Mr. Davis was selected as the Star-News Newspapers' Citizen of the Year in New Hanover County for 1973; and

Whereas, Mr. Davis was a member of St. John's Episcopal Church; he served as Chairman of the Finance Department of the church's National Council from 1946 to 1952, a former trustee of the Protestant Episcopal Theological Seminary in Virginia and at the time of his death, was a director of the Episcopal Church Foundation; he was a former trustee of the Episcopal Radio-TV Foundation and served as a trustee of Wilmington College (University of North Carolina at Wilmington) and trustee emeritus of Cape

Fear Technical Institute, and in 1952, The Citadel awarded him an honorary doctorate of science; and

Whereas, Mr. Davis served as a director of the United States Chamber of Commerce from 1949 to 1952, was a member of the governing board of Nations Business, was a former director of Jefferson Standard Life Insurance Company and the Home Insurance Company of New York, and in addition, was a member of numerous civic and social clubs, both State and national; and

Whereas, Champion McDowell Davis exemplified the highest qualities of integrity and responsibility in both his public and private life, and he possessed that peculiar acumen that enabled him to contribute substantially and effectively to the improvement and betterment of the world around him, elevating and enriching the lives of those with whom he was associated and came in contact; and

Whereas, he is survived by a sister, Mrs. Mildred Davis Adams; a nephew, Robert Davis Darden; a niece, Mrs. Mary Nixon Hardwicke; two great-nieces and a great-nephew;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly of North Carolina expresses its high regard for the life and work of Champion McDowell Davis, and mourns the loss of one of its energetic, gifted and beloved citizens.

Sec. 2. The General Assembly extends to the family of Champion McDowell Davis its deepest sympathy in the loss of their loved one.

Sec. 3. The Secretary of State is directed to transmit a certified copy of this resolution to the family of Champion McDowell Davis.

Sec. 4. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of April, 1975.

S. R. 306 RESOLUTION 33

A JOINT RESOLUTION COMMEMORATING MUSIC IN OUR SCHOOLS DAY.

Whereas, March 13, 1975, has been declared Music In Our Schools Day and is being celebrated throughout the nation and is dedicated to millions of young people who make music, listen to music and learn about music through music education in the schools; and

Whereas, music is a powerful esthetic force that brings spirit and joy into the life of every individual; and

Whereas, music dignifies the realm of feeling by merging intellect and emotion in the search for humane ways of life; and

Whereas, music is a significant art which, as it moves into the core of education, becomes a powerful channel to the innermost feelings and responses of every child; and

Whereas, music is a potent instrument creating harmony and rhythm that finds its way into the inward places of the soul; and

Whereas, music can be enjoyed at all emotional and intellectual levels and that a disciplined approach to it will reward the students as few studies can; and

Whereas, the General Assembly desires to commemorate Music In Our Schools Day;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the General Assembly recognizes that March 13, 1975, is dedicated to Music In Our Schools Day and encourages the observance of this day throughout the schools of this State.

Sec. 2. That this resolution shall become a part of the public records of the 1975 General Assembly of North Carolina.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of April, 1975.

S. R. 568 RESOLUTION 34

A JOINT RESOLUTION AUTHORIZING THE BOARD OF TRANSPORTATION TO INSTALL APPROPRIATE TRAFFIC SAFETY DEVICES AT SUBSTANDARD BRIDGES ON THE STATE HIGHWAY SYSTEM.

Whereas, the State of North Carolina is responsible for the maintenance and the improvement of more than 16,400 bridges on the State Highway System; and

Whereas, there presently exist some 363 bridges on the State Highway System which have a width sufficient for only one lane of traffic; and

Whereas, the recent collapse of the bridge on secondary road 1003 (Surry-Yadkin Counties) over the Yadkin River has resulted in public concern, interest, and support for needed bridge safety improvements; and

Whereas, prompt action is required to implement those measures necessary to provide needed bridge safety improvements in order to assure the safety of citizens traveling on the State Highway System; and

Whereas, the North Carolina Board of Transportation desires to fully cooperate with the General Assembly to immediately initiate the installation of appropriate safety devices for bridges on the State Highway System;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly has determined the existing state of affairs require prompt action to provide needed safety devices in vicinity of substandard bridges on the State Highway System.

Sec. 2. The North Carolina Board of Transportation is hereby authorized to immediately implement a program to establish needed bridge safety measures and devices.

Sec. 3. The North Carolina Board of Transportation is authorized to utilize one million five hundred thousand dollars ($1,500,000) from its "Reserve for Emergencies, Unforeseen Events and Public Access Roads" as appropriated for the year 1974-75 for the implementation of said program.

Sec. 4. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1975.

S. R. **RESOLUTION 35**

A JOINT RESOLUTION URGING THE NORTH CAROLINA UTILITIES COMMISSION TO CONDUCT A FUEL ALLOCATION POLICY STUDY AND TO DEVELOP A LONG-TERM POLICY FOR THE STATE WITH RESPECT TO FUEL ALLOCATION.

Whereas, it is clear that the supply of natural gas available to the people and industries of North Carolina will continue to be in short and possibly decreasing supply for an indefinite period of time; and

Whereas, the allocation of additional natural gas to North Carolina in the near future depends primarily upon pending litigation with and policies of the Federal Power Commission; and

Whereas, the General Assembly of North Carolina has expressed its great concern to the Federal Power Commission; and

Whereas, the restraining order of the North Carolina Utilities Commission with respect to new residential hookups of natural gas will extend only until April 15th; and

Whereas, in a recent report of the North Carolina Utilities Commission general concern was expressed of the possibility of further reduction of natural gas supplies to the State;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The North Carolina Utilities Commission is hereby urged to initiate immediately a comprehensive study of the need for a continuing fuel allocation policy for the State of North Carolina, and especially to focus upon the availability of supplies of alternative sources of fuel.

Sec. 2. The North Carolina Utilities Commission, on the basis of such study, is urged to institute by order a policy for the continuing allocation of different types of fuel among categories of consumers until it is clear that the present crisis in the availability of certain types of fuels no longer exists.

Sec. 3. In formulating such a policy, the North Carolina Utilities Commission is hereby directed to consider the impact upon the economy and upon different industries of a prolonged unavailability of certain types of fuels.

Sec. 4. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of April, 1975.

S. R. 522 **RESOLUTION 36**

A JOINT RESOLUTION PROVIDING FOR THE PROCEDURE FOR NOMINATING AND ELECTING MEMBERS OF THE BOARD OF GOVERNORS OF THE UNIVERSITY OF NORTH CAROLINA.

Whereas, the General Assembly is charged with the responsibility of filling vacancies which occur in the membership of the Board of Governors of The University of North Carolina; and

Whereas, it is incumbent upon both the Senate and the House of Representatives to have uniform methods and procedures in filling vacancies

which occur in the membership of the Board of Governors of The University of North Carolina;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. There are hereby adopted procedures for nominating and electing members of the Board of Governors of The University of North Carolina as follows:

I. JOINT SESSION - RESPONSIBILITIES.

1. It is the duty of the House Committee on University Trustees and the Senate Committee on Higher Education, in joint session, to nominate at least two candidates for each opening in each category of seats on the Board of Governors of The University of North Carolina.

2. Meeting in joint session, the committees will screen nominees as to their qualifications and background, making sure that suitable candidates are nominated for each category, and that each is willing and able to serve and has no statutory disabilities.

3. Committee nominations will be placed before a joint session of the House and Senate.

II. JOINT SESSION - NOMINATIONS.

1. In the joint session of the Senate and House of Representatives, the floor shall be opened for nominations after the committee report has been made. Nominations shall be grouped into six categories, as required by G.S. 116-6:

(1) Women for eight-year term

(2) Minority race members for eight-year term

(3) Republicans for eight-year term

(4) At-large members for eight-year term

(5) Minority race members for six-year term

(6) At-large members for two-year term

2. In placing a name in nomination, the nominator shall state the category for which his nominee is being nominated. An individual cannot be nominated in more than one category.

3. There is no limit to the number of persons a Senator or Representative may nominate.

4. Nominations shall continue until the number of nominees is at least twice the number of places to be filled in each category, that is, there shall be a minimum of two women, two Republicans, two racial minority members, and 10 at-large members for an eight-year term; two racial minority members for a six-year term; and two at-large members for a two-year term.

5. No vote will be taken on nominees in the joint session. When all nominations have been received, the joint session will be dissolved.

6. The Chairman of the House Committee on University Trustees and the Chairman of the Senate Committee on Higher Education shall contact all nominees and ascertain whether they would serve if elected. Any nominee may withdraw his name without the approval of his nominator. If withdrawals reduce the number of candidates below twice the number of places to be filled in any category, another joint session of the Senate and House shall be held to receive sufficient additional nominations in that category.

III. ELECTIONS IN THE SENATE.

1. A ballot shall be prepared under the supervision of the Chairman of the House Committee on University Trustees and the Chairman of the Senate Committee on Higher Education for the use of the Senate. The ballot shall list all nominees of the joint session who have consented to run and their names shall be arranged (a) by length of term, (b) by category and (c) within each category, alphabetically by surname.

2. The Senators shall proceed to mark their ballots for the following:

One person in the Republican category for an eight-year term

No person in the minority race category for an eight-year term

No persons in the women's category for an eight-year term

Three persons in the at-large category for an eight-year term

One person in the minority race category for a six-year term.

3. The Chairman of the Senate Committee on Higher Education and the Chairman of the House Committee on University Trustees shall be responsible for canvassing the vote and declaring the results thereof.

4. In order to be chosen, a nominee must receive a majority of all the votes cast for his category. When a nominee for a category containing a single position is to be chosen and no candidate receives a majority of the votes cast for all the candidates in that category, a runoff shall be conducted between the person receiving the highest and the person receiving the second highest number of votes cast. When fewer than three candidates in the at-large category receive a majority of all the votes cast for positions in that category, a runoff to fill the open position or positions shall be conducted among the persons receiving the highest number of votes cast, and the number of persons to be voted on in the runoff shall be twice the number of positions remaining to be filled.

5. When the Chairman of the Senate Committee on Higher Education and the Chairman of the House Committee on University Trustees have determined that the Senate has chosen one member of the Board of Governors who is a Republican for a term of eight years, three members of the Board of Governors from the at-large category for a term of eight years, and one member of the Board of Governors who is a member of a minority race for a term of six years, the Chairman of the Senate Committee on Higher Education shall make a motion for the simultaneous election of those five persons by the Senate to the indicated positions and for the indicated terms. The roll of the Senate then shall be called, and each Senator who is present shall vote "aye" or "no" on the motion of the Chairman. If a majority of those voting shall vote "aye", the persons whose names appear on the list shall be declared to have been elected.

IV. ELECTIONS IN THE HOUSE OF REPRESENTATIVES.

1. A ballot shall then be prepared under the supervision of the Chairman of the House Committee on University Trustees and the Chairman of the Senate Committee on Higher Education for the use of the House of Representatives. That ballot shall list all nominees of the joint session who have consented to run, and their names shall be arranged (a) by length of term, (b) by category, and (c) within each category, alphabetically by surname. The names of the persons who have been elected to the Board of Governors by the Senate shall be appropriately marked.

2. The Representatives shall proceed to mark their ballots for the following:

One person in the women's category for an eight-year term

One person in the minority race category for an eight-year term

No person in the Republican category for an eight-year term

Two persons in the at-large category for an eight-year term

One person in the at-large category for a two-year term.

3. The Chairman of the Senate Committee on Higher Education and the Chairman of the House Committee on University Trustees shall be responsible for canvassing the vote and declaring the results thereof.

4. In order to be chosen, a nominee must receive a majority of all the votes cast for his category. When a nominee for a category containing a single position is to be chosen and no candidate receives a majority of the votes cast for all the candidates in that category, a runoff shall be conducted between the person receiving the highest and the person receiving the second highest number of votes cast. When fewer than two candidates in the eight-year at-large category receive a majority of all the votes cast for positions in that category, a runoff to fill the open position or positions shall be conducted among the persons receiving the highest number of votes cast, and the number of persons to be voted on in the runoff shall be twice the number of positions remaining to be filled.

5. When the Chairman of the Senate Committee on Higher Education and the Chairman of the House Committee on University Trustees have determined that the House of Representatives has chosen one member of the Board of Governors who is a woman for a term of eight years, one member of the Board of Governors who is a member of a minority race for a term of eight years, two members of the Board of Governors from the at-large category for a term of eight years, and one member of the Board of Governors from the at-large category for a term of two years, the Chairman of the House Committee on University Trustees shall make a motion for the simultaneous election of those five persons by the House to the indicated positions and for the indicated terms. The roll of the House then shall be called, and each Representative who is present shall vote "aye" or "no" on the motion of the Chairman. If a majority of those voting shall vote "aye", the persons whose names appear on the list shall be declared to have been elected.

V. NOTIFICATION OF ELECTION RESULTS.

1. When the election process is complete, the Chairman of the Senate Committee on Higher Education and the Chairman of the House Committee on University Trustees shall notify the Secretary of the Board of Governors of The University of North Carolina of the names of the persons elected by the General Assembly and the category from which and term for which each of them was elected.

Sec. 2. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of April, 1975.

S. R. 573

RESOLUTION 37

A JOINT RESOLUTION COMMEMORATING THE HALIFAX RESOLVES OF APRIL 12, 1776, WHICH AUTHORIZED NORTH CAROLINA DELEGATES IN THE CONTINENTAL CONGRESS TO VOTE FOR INDEPENDENCE.

Whereas, April 12, 1975, is the 199th anniversary of the occasion on which the Fourth North Carolina Provincial Congress adopted the famous Halifax Resolves; and

Whereas, the members of the Fourth Provincial Congress were already determined on the course of independence and knew other colonies were likewise so determined; and

Whereas, the said members forbore to take unilaterally an action which they conceived ought to be taken by all 13 colonies in unison; and

Whereas, by such forbearance they set the example for American unity in defense of American liberty; and

Whereas, such examples led ultimately to the winning of American independence and to the establishment of the oldest surviving constitutional republic in the world; and

Whereas, North Carolina was the first of the 13 original colonies to take such an official action for independence; and

Whereas, it was through this action that North Carolina forged the first link in a chain of events that led directly to the Declaration of Independence on July 4, 1776; and

Whereas, the year 1976 will be the bicentennial anniversary of the action by the Continental Congress for independence from the Mother Country; and

Whereas, the example set at Halifax on April 12, 1776, ought ever to be an inspiration and model for all North Carolinians and Americans; and

Whereas, April 12 of every year has been designated as Halifax Day; and

Whereas, Halifax Day is the occasion on which the State and the nation are annually reminded of the wisdom, courage, and foresight of the Fourth North Carolina Provincial Congress; and

Whereas, the General Assembly of North Carolina is desirous of making known its approbation and support of the purpose of Halifax Day;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the General Assembly extends its warmest wishes and highest respects to those citizens of North Carolina and other states gathered at Halifax to commemorate Halifax Day.

Sec. 2. The General Assembly commends to all North Carolinians and all Americans that they study and emulate the example set at Halifax by the members of the Fourth North Carolina Provincial Congress on April 12, 1776.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of April, 1975.

H. R. 507 **RESOLUTION 38**

A JOINT RESOLUTION CALLING FOR A STATE-WIDE CLEANUP PROGRAM IN CONNECTION WITH THE BICENTENNIAL CELEBRATION.

Whereas, the State of North Carolina and its sister states are currently engaged in observing and celebrating the birth of this nation almost 200 years ago; and

Whereas, it is the sense of the General Assembly that this will be a period of increased awareness of the qualities of our State in the present, as well as in the past; and

Whereas, the great State of North Carolina has much to offer in the way of natural beauty from the mountains through the Piedmont to the seashore, and can be justifiably proud of its heritage; and

Whereas, the feeling of pride in our great State can be enhanced by a concerted effort aimed at further cleaning up and improving our natural environment, in order to exhibit our own awareness of the beauty of our State to the citizens of our sister states; and

Whereas, North Carolina desires to exhibit its enthusiasm and support for the principles of the Bicentennial;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the North Carolina General Assembly recognizes the need for a state-wide program of cleaning up and painting up in order to improve and enhance our national image in this time of national celebration.

Sec. 2. That the leaders in each local community are called upon to initiate such a program by exhibiting their own enthusiasm for the principles set out herein, and by taking such action as they deem necessary to inform the citizenry of this increased effort to make this State a leader in the Bicentennial celebration.

Sec. 3. That the leaders of State government are called upon to exhibit and publicize their support for this program, in order that each citizen will be made aware of the effort being made.

Sec. 4. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of April, 1975.

H. R. 674 **RESOLUTION 39**

A JOINT RESOLUTION HONORING THE SOUTHERN FURNITURE MARKET CENTER.

Whereas, the Southern Furniture Market Center in High Point, North Carolina, formally dedicates on April 17, 1975, its eighth expansion to become the largest building in the United States, with more than two million square feet of space, devoted to the exposition for the trade of home furnishings; and

Whereas, it is the focal point of the great Southern Furniture Market, the most important center of furniture marketing in the world; and

Whereas, it is the center around which the Southern Furniture Market has been developed from a beginning as a regional event with one-tenth of the space it now has to international stature that attracts upwards of 30,000 members of

the industry semiannually from all 50 states and from foreign countries as well as continuing to fill an appropriate regional service function; and

Whereas, it has undergirded and given impetus to the growth of the furniture manufacturing and allied industries in North Carolina and our neighboring sister states so significantly that a wide area which transcends State lines is identified as Furnitureland U. S. A.; and

Whereas, its stimulus has caused the Southern Furniture Market to spread along the roadway from the central Piedmont to the mountains so the furniture world identifies it as the Furniture Highway;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. In recognition of the tremendous import to the people of North Carolina, the General Assembly congratulates and salutes the Southern Furniture Market Center on this occasion of dedication so significant of the vital role it fills in the economic progress and resources of North Carolina.

Sec. 2. That a certified copy of this resolution be transmitted by the Secretary of State to the officers and directors of the Southern Furniture Market Center and the communications media in the area.

Sec. 3. This resolution shall become effective on ratification.

In the General Assembly read three times and ratified, this the 16th day of April, 1975.

S. R. 595 **RESOLUTION 40**

A JOINT RESOLUTION COMMEMORATING THE LIFE AND MEMORY OF W. KERR SCOTT, FORMER GOVERNOR AND UNITED STATES SENATOR FROM NORTH CAROLINA.

Whereas, the Honorable W. Kerr Scott, affectionately known as "the Squire of Haw River", was born on April 17, 1896; and

Whereas, he graduated with honors in 1917 as a student of agriculture at North Carolina State College, now North Carolina State University, and was later distinguished by many honors and distinctions as a farm leader in Alamance County, the State and the nation; and

Whereas, in testimony to his ability as a leader, he established the largest 4-H Registered Jersey Calf Club in the world, became Master of the North Carolina State Grange, served as an officer or board member of many organizations identified with the improvement of rural life, was appointed by President Franklin D. Roosevelt as Regional Director of the newly created Farm Debt Adjustment Administration in a region encompassing seven southern states, and for 11 years held with honor the post of North Carolina Commissioner of Agriculture; and

Whereas, his marriage in 1919 to Mary Elizabeth White, known famously as "Miss Mary", who was one of the most beloved women this State has ever known, helped in many ways to enhance his success and to continue his contributions to the welfare and the enrichment of the lives of so many people after his death; and

Whereas, taking the office of Governor of North Carolina in 1948, he introduced his "Go Forward Program" which proposed more money for expanded assistance to the aged, dependent, and handicapped, for more hospital and public health services, for more schools and higher teacher salaries, for more

dormitories, laboratories, and classrooms for our universities, and for better care of the mentally ill; and

Whereas, a list of the accomplishments of W. Kerr Scott's administration would include 14,810 miles of paved roads, 8,000 new classrooms, 175 gymnasiums, 350 school lunchrooms, 398 new industrial plants, a five hundred fifty thousand dollar ($550,000) annual appropriation for a statewide school public health program, permanent improvements provided at mental, tubercular, orthopedic and community hospitals, 31,000 rural telephones, and 153,000 new electric connections in rural areas; and

Whereas, he was elected to represent North Carolina as a United States Senator in 1954, and served in this capacity with distinction until his death on April 16, 1958;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly of North Carolina hereby expresses its deep appreciation and gratitude for the spiritual, moral, material, and political leadership and impact that this untiring, vision-endowed agricultural leader-statesman made on the future of his native North Carolina, which he visualized as forever going forward.

Sec. 2. That by this resolution, the General Assembly of North Carolina honors the example of his life, his services to the people, and the people's faith in him that earned for him the immortal epitaph, "Devoted husband and father, beloved statesman, friend of mankind, servant of God" - Kerr Scott - Esse Quam Videri, to be rather than to seem. Man and Motto - The Same.

Sec. 3. The Secretary of State is hereby directed to prepare and deliver certified copies of this resolution to the immediate past Governor Robert W. Scott, Senator Ralph Scott, and other members of the family.

Sec. 4. This resolution shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 18th day of April, 1975.

S. R. 37 RESOLUTION 41

A JOINT RESOLUTION RESPECTFULLY PETITIONING THE POST OFFICE OF THE UNITED STATES TO ISSUE A COMMEMORATIVE STAMP DEPICTING THE NASH-HOOPER HOME, LOCATED IN HISTORIC HILLSBOROUGH, NORTH CAROLINA, IN OBSERVANCE AND RESPECT FOR THE BICENTENNIAL CELEBRATION OF THE AMERICAN REVOLUTION.

Whereas, there is approaching the period in our history of the bicentennial of the American Revolution whereby the thirteen original states and the Republic of the United States of America were founded; and

Whereas, the State of North Carolina contains many such events which directly contributed to the advent of the American Revolution; and

Whereas, the Town of Hillsborough, North Carolina, was the scene of a number of notable Revolutionary War events: the War of the Regulation, 1768-1771; the Third Provincial Congress, 1775; five General Assemblies, 1778, 1780, 1782, 1783 and 1784; the Board of War Session, 1780; the Raising of the Royal Standard by Charles Lord Cornwallis, February 22, 1781; the Tory Capture of Governor Thomas Burke, 1781; the Constitutional Convention of

1788. The Town was also a temporary capital of North Carolina and a mobilization center for both British and Continental Army Forces during the Revolutionary War; and

Whereas, the Town of Hillsborough, North Carolina, is the site of the Nash-Hooper House, the only remaining home of any of the State of North Carolina's signers of The Declaration of Independence (William Hooper, Joseph Hewes and John Penn); and

Whereas, the Nash-Hooper Home is not only the home of William Hooper, one of the State of North Carolina's three signers of The Declaration of Independence, but also the home of the Revolutionary War hero and General Francis Nash, Commander of the North Carolina Brigade, who was mortally wounded at the Battle of Germantown, Pennsylvania, in 1777, and additionally, the home until his death, of North Carolina Governor Alexander Graham, who was also a United States Senator, a Confederate State Senator, and Secretary of the Navy; and

Whereas, the Nash-Hooper House has been designated a national historic landmark by the United States Department of the Interior through the National Park Service; and

Whereas, the General Assembly of North Carolina desires to express its warm approbation and support for the planning and execution of the bicentennial celebration of the United States of America;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly of North Carolina extends its deepest feelings for and support of bicentennial programs appropriate to the commemoration of the American Revolution and to the renewed strengthening of the principles upon which our State and our nation were founded.

Sec. 2. The General Assembly of the State of North Carolina respectfully petitions the Post Office of the United States to issue a commemorative stamp depicting the Nash-Hooper Home, located in historic Hillsborough, North Carolina, in observance and respect for the bicentennial celebration of the American Revolution.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of April, 1975.

H. R. 494 RESOLUTION 42

A JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF THE UNITED STATES TO ESTABLISH A TASK FORCE TO DETERMINE THE STATUS OF AMERICAN SERVICE PERSONNEL AND CIVILIANS LISTED AS MISSING IN ACTION AS A RESULT OF MILITARY PARTICIPATION IN INDO-CHINA AND MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO TAKE SUCH ACTION AS MAY BE NECESSARY TO MAKE AN HONORABLE DETERMINATION OF THE FATE OF THE MIA'S.

Whereas, it is now some two years since the signing of the Paris Peace Agreement, and there are still 1300 MIA'S (persons listed as Missing In Action) to be released or accounted for in Southeast Asia; and

Whereas, the Paris Peace Agreement was guaranteed by the countries of Iran, Russia, the Peoples Democratic Republic of China, France, England, the Peoples Republic of Indonesia, the Peoples Republic of Hungary, and the Peoples Republic of Poland; and

Whereas, an honorable determination of the fate of all United States servicemen and civilians missing in Southeast Asia is a continuing obligation of the Government of the United States;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly of North Carolina respectfully request the President of the United States to establish and appoint immediately a Task Force to determine the status of American servicemen and civilians who are listed as missing in action as a result of our military participation in the Indo-China area.

Sec. 2. That the General Assembly of North Carolina respectfully request that the appropriate committees of the Congress of the United States hold hearings and take such action as may be necessary to make an honorable determination of the fate of the American servicemen and civilians who are listed as missing in action in the Indo-China area.

Sec. 3. That the Secretary of State of the State of North Carolina send copies of this resolution to President Gerald R. Ford, Secretary of State Henry A. Kissinger, the presiding officer of each branch of the Congress of the United States, to the members of the Congress from North Carolina, and to the chief executive officer of each country serving as a guarantor of the Paris Peace Agreement.

Sec. 4. This resolution shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of April, 1975.

H. R. 501 RESOLUTION 43

A JOINT RESOLUTION HONORING THE LIFE, MEMORY AND ACHIEVEMENTS OF J. ERNEST PASCHALL, A FORMER MEMBER OF THE NORTH CAROLINA GENERAL ASSEMBLY.

Whereas, J. Ernest Paschall, for four terms a distinguished representative from Wilson County in the General Assembly, died on the 6th day of November, 1974; and

Whereas, J. Ernest Paschall enjoyed a highly successful and distinguished career in banking, having served as president of Branch Banking & Trust Company, as president and director of the Wilson Home and Loan Association, as president of the North Carolina Bankers Association and as a member of the North Carolina Banking Commission, and was instrumental in organizing the Wilson County Chapter of the American Institute of Banking; and

Whereas, J. Ernest Paschall was a devoted member of the First Christian Church of Wilson, where he served as a trustee and elder and as a member of the finance committee; and

Whereas, J. Ernest Paschall was a graduate of Atlantic Christian College, from which he received an honorary LL.D. degree in 1961, and served as a member of the Board of Trustees, as president of the Alumni Association and as chairman of the finance committee; and

Whereas, J. Ernest Paschall worked unselfishly for the betterment of his community and area having served as president of the Wilson Chamber of Commerce, as chairman of the Wilson County Democratic Executive Committee, as chairman of the local chapter of the American Cancer Society, as director and president of the Coastal Plain Development Association, as a member of the Joint City-County Planning and Zoning Board; and as a member of Wilson County and State Bar Associations; and

Whereas, J. Ernest Paschall is survived by a daughter, Mrs. Charles W. Mauze of Lexington, North Carolina, and a son, Major General James E. Paschall of Colorado Springs, Colorado, five grandchildren and four great-grandchildren;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly recognizes and expresses its appreciation and gratitude for the many years of selfless public service rendered by J. Ernest Paschall, with full knowledge that the State of North Carolina has lost one of its most able, distinguished and loyal citizens.

Sec. 2. The General Assembly of North Carolina extends its deep and sincere sympathy to the family of J. Ernest Paschall.

Sec. 3. A copy of this resolution shall be sent to the family of J. Ernest Paschall.

Sec. 4. This resolution shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 23rd day of April, 1975.

H. R. 504 RESOLUTION 44

A JOINT RESOLUTION HONORING R. J. REYNOLDS SENIOR HIGH SCHOOL OF WINSTON-SALEM FOR BEING THE DISTRICT 8 WINNER AND THE NORTH CAROLINA 4-A STATE BASKETBALL CHAMPIONS.

Whereas, the R. J. Reynolds Senior High School basketball team brought honor to Winston-Salem and Forsyth County by being the District 8 winner and the North Carolina 4-A State Basketball Champions; and

Whereas, the R. J. Reynolds Senior High School basketball team did display great togetherness and team play to win this championship; and

Whereas, each member of the team did perform his best in the true tradition of good sportsmanship; and

Whereas, the R. J. Reynolds Senior High School basketball team did receive their inspiration and instruction from their honorable coaches and true friends, Richard Habegger and John Hutchins; and

Whereas, the R. J. Reynolds Senior High School basketball team has

magnificently played an outstanding season under the leadership of their team captains, Willard Coker, James Cunningham, and Ged Doughton;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly of North Carolina extend congratulations to the entire R. J. Reynolds Senior High School basketball team, to their coaches, Richard Habegger and John Hutchins, and to their team captains, Willard Coker, James Cunningham, and Ged Doughton for the outstanding record the R. J. Reynolds Senior High School basketball team established this year; namely, being the District 8 winner and the North Carolina 4-A State basketball champions.

Sec. 2. That the Secretary of State forthwith send a copy of this resolution to R. J. Reynolds Senior High School Principal, Robert D. Deaton; Athletic Director, Herman Bryson; Head Coach, Richard Habegger, and Assistant Coach, John Hutchins and Team Captains Willard Coker, James Cunningham, and Ged Doughton, and to each member of the team; and that the General Assembly directs that a copy of this resolution become a part of the permanent records of the State of North Carolina.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of April, 1975.

H. R. 568 RESOLUTION 45

A JOINT RESOLUTION HONORING JUNIUS KENNETH POWELL.

Whereas, in the passing of Junius Kenneth Powell, the State of North Carolina and Columbus County have lost one of their most energetic and best known personalities; and

Whereas, Junius Kenneth Powell, a respected Whiteville attorney, served his city, county, and State and gave unselfishly of his time and energy for the good of others; and

Whereas, Junius Kenneth Powell served in both the House and Senate in the Legislature of the State of North Carolina and originated the movement that caused the introduction of the "Powell Bill" which bore his name; and

Whereas, in addition to his well-conceived plan to return gas tax revenues to municipalities to enable them to maintain and improve their non-State-maintained streets as originated in the "Powell Bill", and his otherwise effective representation in the General Assembly, Junius Kenneth Powell served the City of Whiteville as mayor and provided leadership in many other capacities; and

Whereas, in addition to his law practice, civic duties, and political activities, Junius Kenneth Powell was a well-known gardener and founded the Columbus County Camellia Society and served a term as President of the North Carolina Camellia Society; and

Whereas, Junius Kenneth Powell was a respected member and active deacon of the Whiteville First Presbyterian Church and distinguished himself as a Mason and Shriner; and

Whereas, Columbus County, the City of Whiteville and the State of North Carolina will greatly miss the abilities and great energy of its honored son, Junius Kenneth Powell;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly of North Carolina recognizes the contributions and mourns the passing of Junius Kenneth Powell and extends its sympathy to his wife, Helen Simmons Powell, and to his daughter, Catherine Powell Lee.

Sec. 2. That a copy of this resolution shall be duly certified by the Secretary of State and be by him transmitted to the family of Junius Kenneth Powell.

Sec. 3. That this resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of April, 1975.

S. R. 643 RESOLUTION 46

A JOINT RESOLUTION RECOGNIZING NATIONAL SECRETARIES WEEK AND HONORING SECRETARIES THROUGHOUT THE STATE.

Whereas, secretaries provide a valuable and necessary service to their employers in all fields of business, industry, education, and government; and

Whereas, the General Assembly is especially aware of the important contribution of its own legislative secretaries; and

Whereas, the week of April 20-26, 1975, is designated as "Secretaries Week" and is sponsored by the National Secretaries Association (International) in order to bring recognition to all secretaries, to inform the public of their vital contribution, and to remind secretaries of their professional responsibilities;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the General Assembly hereby recognizes the benefits that this State receives from its secretaries and salutes all secretaries for their outstanding services. Appreciation is especially extended to legislative secretaries for their invaluable service to the State.

Sec. 2. That the citizens of the State of North Carolina are called upon to observe national "Secretaries Week" and exhibit their own appreciation and gratitude for the work performed by secretaries.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of April, 1975.

S. R. 445 **RESOLUTION 47**

A JOINT RESOLUTION HONORING THE ROTC UNITS AND MEMBERS IN NORTH CAROLINA AND OUR NATION.

Whereas, we recognize that freedom is earned, not freely given; and

Whereas, we recognize that freedom must be preserved by those who choose to remain free; and

Whereas, America, one of the great free nations of all times, has always had an abundance of men and women who would come to their country's aid whenever its safety was in danger and the freedom of its people at stake; and

Whereas, this nation and this State owe their freedom and continued prosperity not only to those young men and women who have sacrificed and fought in this nation's wars, but also to those young men and women who prepare themselves to carry on this valiant tradition; and

Whereas, the Governor of North Carolina is proclaiming April 12-19 as ROTC week in North Carolina; and

Whereas, we can be justly proud of these young men and women who prepare to preserve our nation and our State and who endeavor to bring peace to our world; and

Whereas, there are 1,908 ROTC cadets in North Carolina's college programs - 973 Army, 236 Navy, and 699 Air Force; and

Whereas, there are 9,330 Junior ROTC cadets in North Carolina - 5,180 Army, 1,219 Navy and 2,931 Air Force; and

Whereas, there are now 16 Senior ROTC units in North Carolina - 7 Army, 3 Navy, and 6 Air Force; and

Whereas, there are now 56 Junior ROTC schools in North Carolina - 26 Army, 8 Navy, and 22 Air Force;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the North Carolina General Assembly, speaking on behalf of all the citizens of North Carolina, expresses its deep appreciation to and its admiration for these ROTC cadets for their devotion to our nation and our State.

Sec. 2. That the North Carolina General Assembly further recognizes the great and important part that ROTC cadets play in guaranteeing the freedom and safety of our nation and State.

Sec. 3. That the North Carolina General Assembly hereby expresses its complete and total support and backing to all ROTC cadets in North Carolina.

Sec. 4. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of April, 1975.

H. R. 796 **RESOLUTION 48**

A JOINT RESOLUTION RECOGNIZING AND CONGRATULATING THE GARDEN CLUB OF NORTH CAROLINA, INCORPORATED, FOR FIFTY YEARS OF SERVICE TO THE CITIZENS OF THE STATE.

Whereas, the Garden Club of North Carolina, Incorporated, will hold its annual meeting in Winston-Salem on April 28-30 of this year; and

Whereas, that illustrious organization is currently celebrating its 50th anniversary; and

Whereas, each year of the existence of the Garden Club of North Carolina, Incorporated, has been marked by outstanding service to the citizens of North Carolina; and

Whereas, the Garden Club of North Carolina, Incorporated, was organized in 1925 by five garden clubs: those of Winston-Salem, High Point, Asheboro, Reidsville and Raleigh; and

Whereas, at present, there are over 800 clubs in North Carolina with 18,500 members; and

Whereas, the Garden Club of North Carolina, Incorporated, has been responsible for the establishment of the Elizabethan Garden at Manteo, the Daniel Boone Native Garden at Boone, the Brunswick Town Native Trail at Southport and the Martha Franck Fragrance Garden for the Blind in Durham;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly does hereby congratulate the Garden Club of North Carolina, Incorporated, for 50 years of devoted service to the citizens of North Carolina.

Sec. 2. That a copy of this resolution be transmitted to the president of the Garden Club of North Carolina, Incorporated, Mrs. J. Ross Pringle of Greensboro.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of April, 1975.

H. R. 735 **RESOLUTION 49**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF W. HANCE HOFLER.

Whereas, W. Hance Hofler died on November 6, 1974; and

Whereas, W. Hance Hofler was born in Gatesville, North Carolina, on March 29, 1904, and received his preparatory education at Lincoln Memorial University and his legal education at University of North Carolina and Wake Forest College; and

Whereas, W. Hance Hofler was admitted to the bar in this State in 1928; was a member of the Durham Bar Association (President 1955-56) and American Bar Association; and a senior partner in the law firm of Hofler, Mount, White, and Long in Durham, North Carolina; and

Whereas, in the death of W. Hance Hofler the State has lost a highly capable attorney who devoted his time, energy, and talents to the betterment of the State, including service in the North Carolina General Assembly from 1965

to 1969; and as Chairman of the House Judiciary Committee from 1967 to 1969; and

Whereas, W. Hance Hofler, in addition to his service to the State, actively participated in the life in his community as a member of the First Baptist Church of Durham, Past President of the Durham Chamber of Commerce, Director of the North Carolina Price Administration during World War II, Charter Member of the Committee of 100 of Durham, and as a member of the North Carolina Museum Building Committee; and

Whereas, the General Assembly desires to honor the memory of W. Hance Hofler and express its sympathy to the surviving members of his family;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That in the death of W. Hance Hofler, the State of North Carolina has lost one of its most able and conscientious citizens and public servants.

Sec. 2. That the General Assembly does hereby express its appreciation and gratitude for the life and career of W. Hance Hofler.

Sec. 3. That the General Assembly extends its sincere sympathy to the family of W. Hance Hofler in the loss of its distinguished member.

Sec. 4. That the Secretary of State shall cause a certified copy of this resolution to be transmitted to the family of W. Hance Hofler.

Sec. 5. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of April, 1975.

H. R. 721 RESOLUTION 50

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF FRANCES BLOUNT RENFROW DOAK, DISTINGUISHED CITIZEN OF NORTH CAROLINA.

Whereas, Frances Blount Renfrow Doak was born October 13, 1887, the first child to be born in Spring Hope, North Carolina, in Nash County; and

Whereas, her forebears, the Renfrow-Pridgens and Blount-Sorsbys, had lived in eastern North Carolina since well before the Revolutionary War; and

Whereas, Frances Blount Renfrow Doak was educated at Littleton College, Meredith College and Draughon's Business College, and lived much of her life in Raleigh, from 1905 on; and

Whereas, she began her professional career as a legal secretary and from 1908 to 1912 was secretary to former Governor Charles B. Aycock and was assisting him in his campaign for the United States Senate at the time of his death in 1912; and

Whereas, after her marriage in 1913 and a period of retirement from professional life, during which time she remained active in civic and political work, Frances Doak began a new career in 1928 when she became the first woman radio announcer in the State, and pioneered in presenting the first hourly woman's program over Station WPTF where she was on the staff for three years; and

Whereas, from 1934 to 1941 she was employed by the U. S. Department of Agriculture, during which time she was executive secretary in the Farm Debt

Adjustment section of the Farm Security Administration, of which future Governor W. Kerr Scott was the chief; and

Whereas, in 1941 she began a 10-year period of service as Executive Secretary to the North Carolina Federation of Women's Clubs, her active interest in club work making her particularly well qualified for this position, as she had been almost a lifelong member of the Raleigh Woman's Club, serving on many of its committees, particularly its welfare department and, since chairman of that department for two years she was instrumental in establishing the first day care center for Negro children in Raleigh; and

Whereas, Frances Doak also took an active interest in prison reform, and for over 40 years presented an annual Christmas program at Central Prison in Raleigh, a project she started in 1910, it being the first such entertainment ever offered the inmates; and

Whereas, she served as vice-president and later as president of the Raleigh Woman's Club and during her term of office was responsible for initiating one of the first concert series to come to the city, bringing many notable artists; and

Whereas, among her other civic works, Frances Doak helped to organize the first statewide Negro Parent-Teacher Association Congress, was for 30 years secretary of the Wake County Cancer Society, president of the Raleigh W. C. T. U., Chairman of the United Nation's first State Children's Crusade, and vice-president of Health Publications Institute, Inc., for the U. S. Public Health Service; and

Whereas, although in her early life she was a member of the Methodist Church she joined the Raleigh Monthly Meeting of Friends in 1927 which her husband helped to organize, and was always active in the peace and service work of the church and served several terms on the North Carolina Board of the American Friends Service Committee, served as chairman of the International Relations Committee of the Federation of Women's Clubs in 1933, wrote and spoke on behalf of the Dumbarton Oaks Proposals and the formation of the United Nations, and was also partly responsible for the foundation of the Institute of International Relations in North Carolina, which functioned for 17 years; and

Whereas, accomplished both as a speaker and writer, her hobbies included amateur theatricals and in her years in college and early years in the Woman's Club she helped to present and appear in many Shakespearian dramas, was well known throughout the State as a speaker and writer, and edited *The North Carolina Clubwoman* for 10 years; and

Whereas, a lifelong Democrat, she was always active in the party's affairs and worked in many gubernatorial and congressional campaigns, starting with the campaign of the late Cameron Morrison, and most particularly in the campaigns of the late Congressman Harold Cooley, Senator Kerr Scott, in both his gubernatorial and Senate campaigns, Senator Frank Graham and Governor Terry Sanford; and

Whereas, Frances Doak helped to found the Wake County League of Women Voters and served a term as president of the county league, also serving as chairman of the Child Welfare and Women in Industry committee in the State league, and in 1948 she helped to found, and write the constitution for the first unit of the North Carolina Democratic Women; and

Whereas, despite her many and varied activities, Frances Doak was always a devoted wife and mother and a gracious hostess, in 1913 having married

Charles Glenn Doak of Guilford College, well known throughout the State as a coach and athlete, Mr. Doak having served for 33 years as a coach and professor at North Carolina State University, the Doak home serving as an "open house" for State students; and

Whereas, even after the death of her beloved husband in 1956, Frances Doak remained active and interested in the various facets of her life, one of her last tasks being the writing of a history of the N. C. Federation of Women's Clubs 1942-1962; and

Whereas, ill health finally brought a close to Frances Doak's career and for several years she was a resident of the Confederate Home for Women in Fayetteville where she passed away on September 14, 1974; and

Whereas, the late Senator W. Kerr Scott stated in a tribute to Mrs. Doak: "'Miss Frances' will always be remembered by those North Carolinians who know of her work through many agencies for education, prison reforms, good labor laws, and for other contributions toward making North Carolina a better State. She is truly one of North Carolina's outstanding women."; and

Whereas, Frances and Charles Doak are survived by three children: Eleanor Douglas Doak Safran of Fayetteville, Charles Wilson Doak of Rocky Mount, and Robert Renfrow Doak of Raleigh; and

Whereas, the General Assembly of North Carolina wishes to make record of its appreciation to her life and accomplishments and its sincere sorrow at her death;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That in the death of Frances Doak, the State of North Carolina has lost an outstanding public servant and an outstanding useful and loyal citizen.

Sec. 2. That the General Assembly does hereby express its appreciation and gratitude for the life and career and contributions made by Frances Doak.

Sec. 3. That the General Assembly extends its sincere sympathy to the family of Frances Doak in the loss of her distinguished career.

Sec. 4. That a copy of this resolution shall be sent to the family of Frances Blount Renfrow Doak.

Sec. 5. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of April, 1975.

H. R. 782 RESOLUTION 51

A JOINT RESOLUTION FIXING TIME AND PLACE FOR A JOINT SESSION OF THE SENATE AND HOUSE OF REPRESENTATIVES TO NOMINATE CANDIDATES FOR THE BOARD OF GOVERNORS OF THE UNIVERSITY OF NORTH CAROLINA.

Whereas, G.S. 116-6 requires that nominations to the Board of Governors of the University of North Carolina be made in joint session; and

Whereas, there are now 10 vacancies on the Board of Governors which must be filled on July 1, 1975;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the Senate and House of Representatives shall meet in joint session, Tuesday, April 29, 1975, at 1:00 p.m. for the purpose of selecting nominees to fill the vacancies on the Board of Governors.

Sec. 2. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of April, 1975.

H. R. 419 RESOLUTION 52

A JOINT RESOLUTION ENDORSING THE NATIONAL POLICY STATEMENT FOR A BARRIER-FREE ENVIRONMENT.

Whereas, North Carolina is at the forefront among those states that have inaugurated effective programs to assist the physically handicapped in their efforts to live a normal life within a man-made environment geared to the physically fit; and

Whereas, among those steps taken by the State of North Carolina to improve the physical environment of the handicapped, have been the implementation of building codes and construction standards that assist the physically disabled in their daily lives to provide an equality of opportunity for this large segment of our population; and

Whereas, it has come to the attention of the General Assembly that the Congress of the United States has introduced a formal resolution calling upon the public and private sectors of this country to initiate programs that will mobilize resources to remove the natural barriers of our man-made environment to the physically handicapped to allow their participation as equal partners in the mainstream of our day-to-day lives;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly of North Carolina does hereby formally go on record as supporting the National Resolution of Intent passed by the Congress of the United States which favors the removal of man-made barriers to the progress of the physically handicapped.

Sec. 2. That a copy of this resolution be transmitted to the Speaker of the United States House of Representatives, the President of the United States Senate, and each member of the North Carolina delegation to the United States Congress.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of May, 1975.

H. R. 856 **RESOLUTION 53**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JULIAN BAKER FENNER.

Whereas, Julian Baker Fenner, a Nash County farmer and tobacco warehouseman and a former member of the General Assembly died on April 1, 1975, at the age of 66 after a lifetime of distinguished service to the citizens of the State of North Carolina; and

Whereas, Julian Baker Fenner was born in Tarboro, May 24, 1908, the son of W. E. Fenner, a former member of the General Assembly, and Anna Baker Fenner; and

Whereas, Julian Baker Fenner graduated from the University of North Carolina where he was a member of the Delta Kappa Epsilon Fraternity, was an outstanding football player, played basketball, and was an outstanding man on campus; and

Whereas, Julian Baker Fenner served as Commander (USNR) during World War II from 1942 to 1945; and

Whereas, Julian Baker Fenner was an Elder and Moderator of the Albemarle Presbytery; and

Whereas, Julian Baker Fenner was a former President of the Rocky Mount Chamber of Commerce and served on the Rocky Mount School and Planning Boards; and

Whereas, Julian Baker Fenner served as Chairman of the Board of Trustees of Nash Technical Institute and had great interest in the Community College System; and

Whereas, Julian Baker Fenner served in the General Assembly to which he was elected to the House of Representatives for terms in 1967, 1969, 1971, and 1973, where he sponsored legislation promoting public service in the fields of medicine, public education, and State and local government employment, and also legislation promoting research and development relating to farming; and

Whereas, Julian Baker Fenner served on the Local Government Commission, committee on Legislative Research, and was chairman of the Commission on the Lawful Role of Nurses and Local Government Commission, and also served on the Joint Appropriations Subcommittee, Agriculture Committee, Roads Committee, Highway Safety Committee, Education Committee, Higher Education Committee, Penal Institutions Committee, Finance Committee, Manufacturing and Labor Committee, and was chairman in 1973-74 of the State Personnel Committee.

Whereas, Julian Baker Fenner served his hometown, his county, his district, his State, and his nation in an able, efficient and constructive manner; and

Whereas, the General Assembly desires to honor the memory of Julian Baker Fenner and to express the sympathy of each member of the General Assembly to his wife, Mary Ellen (Skipper) Fenner; his sons, William E. Fenner II and Julian B. Fenner, Jr.; his daughters, Ellen Fenner Holt and Anna Howard Fenner; and other members of his family;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly recognizes and expresses its appreciation for the life and dedicated public service rendered by Julian Baker Fenner and his contribution to the betterment of the State of North Carolina.

Sec. 2. That a copy of this resolution shall be certified by the Secretary of State and transmitted to the family of Julian Baker Fenner.

Sec. 3. That this resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of May, 1975.

S. R. 150 **RESOLUTION 54**

A JOINT RESOLUTION ON ENERGY CONSERVATION THROUGH "ENERGY CONSUMPTION ANALYSIS" OF GOVERNMENT BUILDINGS, INCLUDING SCHOOLS.

Whereas, the Building Code Council, established pursuant to G.S. 143-136, et seq., has recently instituted insulation requirements for residences in North Carolina which should conserve fuel and energy; and

Whereas, the General Assembly is now considering a requirement that energy conservation practices be employed in the design and construction of all new government buildings; and

Whereas, it is the sense of the Senate and House that all existing government buildings including public school buildings, should be analyzed for energy consumption to determine the most economical ways to save fuel, including changes in present structural arrangements and methods of operation, and that the costs of such analysis can be paid from the savings in current fuel and utility budgets;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. Conservation of energy is a primary policy of the State and shall be promoted in all government and private activities.

Sec. 2. Persons in charge of each existing government building should secure a competent analysis of its energy consumption and insofar as its present fuel and utility budget permits, make such changes as will conserve and not waste fuel.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1975.

H. R. 866 **RESOLUTION 55**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF E. M. McDUFFIE, SR., NORTH CAROLINA EDUCATOR, HUMANITARIAN, AND FOUNDER OF LAURINBURG INSTITUTE.

Whereas, on September 15, 1904, E. M. McDuffie, Sr., and his wife came from Alabama to Laurinburg, North Carolina, responding to the call of the late Booker T. Washington of Tuskegee Institute to help to provide "suitable education and training in the common pursuits of life for the black people of the area"; and

Whereas, E. M. McDuffie, Sr., in the face of social hardship and adversity began Laurinburg Institute in an old shack with fifteen cents and five students; and

Whereas, E. M. McDuffie, Sr., of his own initiative, love of learning and love for his people solicited support for his school, causing this school to grow on a firm basis; and

Whereas, E. M. McDuffie, Sr., instilled in his students a faith that "blackness need not be a deficit, nor poverty a handicap"; and

Whereas, Laurinburg Institute provided total secondary educational facilities to black boys and girls in Scotland County for more than 50 years; and

Whereas, Laurinburg Institute provides its students with special training in numerous technical fields; and

Whereas, Laurinburg Institute has provided invaluable services to the people of the area, as well as providing educational services to black people from the State, the region, and foreign countries; and

Whereas, the graduates of Laurinburg Institute have distinguished themselves in many fields of human endeavor; and

Whereas, Laurinburg Institute could not have come into being without the vision, dedication and devotion of E. M. McDuffie, Sr.;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly recognizes and expresses its profound appreciation for the public service rendered by E. M. McDuffie, Sr., which has contributed so vastly to Eastern North Carolina and to the betterment of the State of North Carolina.

Sec. 2. That a copy of this resolution be spread upon the minutes of both the House of Representatives and the Senate and a copy of this resolution shall be duly certified by the Secretary of State and by him transmitted to the family of E. M. McDuffie, Sr.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of May, 1975.

S. R. 584 RESOLUTION 56

A JOINT RESOLUTION COMMENDING THE COACHES AND PLAYERS OF THE FRED T. FOARD HIGH SCHOOL GIRLS' BASKETBALL TEAM IN CATAWBA COUNTY.

Whereas, the Fred T. Foard High School 1974-75 Girls' Basketball Team, the "Lady Tigers", had a win record of 28-1 and were the regular season champions, tournament champions, district champions and North Carolina State champions; and

Whereas, in winning the State championship, they demonstrated outstanding sportsmanship as well as uncommon ability and their accomplishments have brought honor to their school;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That Fred T. Foard High School Girls' Basketball Team, the "Lady Tigers", and in particular its coach, Robert Stamey, and the members of

the team composed of Ann Perrou, manager, Robin Brittain, manager, Elaine Scronce, manager, Pauline Tipps, scorekeeper, Cathy Copas, Susan Copas, Co-Captain, Debbie Johnson, Co-Captain, Debbie Bollinger, Sally Reid, Andrea Reinhardt, Karen Fowler, Debbie Lail, Terri Johnson, Susan Brooks and Kathy Barger be commended for their splendid accomplishments in winning the regular season championship, tournament championship, district championship and North Carolina State championship.

Sec. 2. That a copy of this resolution shall be duly certified by the Secretary of State and forthwith transmitted by him to the Fred T. Foard High School, Newton, North Carolina, and those listed in Section 1 of this resolution.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of May, 1975.

S. R. 585 RESOLUTION 57

A JOINT RESOLUTION COMMENDING THE COACHES AND PLAYERS OF THE OAK RIDGE ACADEMY BOYS DIVISION AND THE WESTCHESTER ACADEMY GIRLS DIVISION BASKETBALL TEAMS.

Whereas, the Oak Ridge Academy Boys Division and the Westchester Academy Girls Division basketball teams won the State Championship for Independent Schools; and

Whereas, in winning the State championship, these schools demonstrated outstanding sportsmanship as well as uncommon ability and their accomplishments have brought honor to their schools;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That Oak Ridge Academy Boys Division basketball team in general and in particular, its coach, T. Frye, and the members of the team composed of Keith Cokely, Johns Martin, Charles Vick, Paul Watkins, Matt Dunton, Warren Snow, Charlie Keiger, Paul Grey, Bill Rector, Ray Roberts and Greg VanHook be commended for their splendid accomplishments in winning the State Championship for Independent Schools.

Sec. 2. That Westchester Academy Girls Division basketball team in general and in particular, its coach, Don Farlow and assistant coach, Sandy Barto, and the members of the team composed of Kay Ingram, Royale Coggin, Gayle Culler, Lillie Silver, Jerry Coble, Christy Myatt, Dillard Field, Sarah Myatt, Christy Callis, and Tina Bridges, be commended for their splendid accomplishments in winning the State Championship for Independent Schools.

Sec. 3. That a copy of this resolution shall be duly certified by the Secretary of State and forthwith transmitted by him to Oak Ridge Academy, Oak Ridge, North Carolina, and to Westchester Academy, High Point, North Carolina, and those listed in Sections 1 and 2 of this resolution.

Sec. 4. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of May, 1975.

S. R. 596

RESOLUTION 58

A JOINT RESOLUTION COMMENDING THE ARMED FORCES AND URGING CONGRESS TO PRESERVE THE DEFENSES OF THIS NATION.

Whereas, this State and nation is now in its 200th year of freedom; and

Whereas, that freedom was secured and has since been maintained by the sacrifices of the men and women of the armed forces of this nation, both professional and civilian; and

Whereas, the potential cost of maintenance of freedom is and always will be the lives and fortunes of every citizen of this nation; and

Whereas, it is absolutely essential to the survival of these freedoms which Americans traditionally hold most dear, including but not limited to freedom of religion, freedom of speech, freedom of the press, freedom from any restraints on our liberties without due process of law, and the freedom to criticize government and dissent from the majority, and that survival depends upon the safety of this nation from governments and idealogies which would destroy us in the pursuit of their own destinies; and

Whereas, there has been a discernable trend in the Congress of the United States and in certain segments of the public to detract from the armed forces of this nation, not only the financial support which those forces must have to adequately protect this nation and insure its survival, but also from the respect and admiration which this nation has traditionally had for its armed forces; and

Whereas, such detraction is inimical to the best interests of this nation and should be deplored by every American citizen;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the General Assembly of North Carolina recognizes that while we continue our efforts to secure economic and social justice for all our people we must realize that such justice cannot be obtained unless we remain free, and that freedom can only be guaranteed for the foreseeable future by an armed force second to none.

Sec. 2. That the appreciation of the people of North Carolina is hereby expressed to the men and women of the armed forces, living and dead, who have devoted their lives and fortunes to the maintenance of those freedoms which all of us now enjoy.

Sec. 3. That the Congress of the United States is hereby urged to take care that the defenses of this nation remain adequate for the preservation of this nation and its ideals.

Sec. 4. That this resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of May, 1975.

H. R. 24

RESOLUTION 59

A JOINT RESOLUTION CONTINUING THE CRIMINAL CODE COMMISSION.

Whereas, the General Assembly has given legislative sanction to the creation and continuation of the Criminal Code Commission in Resolution 24 of the 1971 Session and Resolution 26 of the 1973 Session; and

Whereas, the Commission membership supplemented by subsequently-appointed replacement members has diligently pursued its assigned tasks of review and revision, where necessary, of the criminal law and procedure of North Carolina; and

Whereas, the Criminal Code Commission prepared legislation for consideration by the 1973 Session of the General Assembly to rewrite the pretrial criminal procedure in North Carolina which the General Assembly considered and enacted in part; and

Whereas, the Criminal Code Commission had originally planned to finalize its consideration of criminal procedure and a complete review of the substantive criminal law of North Carolina in time for submission to the General Assembly in its 1975 Session but finds time too limited for completion of the task for consideration by the 1975 Session of the General Assembly; and

Whereas, the Criminal Code Commission is finalizing trial stage and appellate procedure statute recommendations and has begun consideration of substantive criminal law for submission to and action by the 1977 Session of the General Assembly; and

Whereas, the magnitude of the tasks set before the Commission and the importance of its work dictate that the Commission be extended through the 1977 Session of the General Assembly.

Now, therefore, be it resolved by the House of Representatives the Senate concurring:

Section 1. The Criminal Code Commission created by Resolution 24 of the 1971 Session of the General Assembly is hereby extended until July 1, 1977 or until the 1977 Session of the General Assembly adjourns *sine die*, whichever date is later.

Sec. 2. The powers and duties of the Commission are expressly continued in effect including the responsibility to prepare a biennial report to the Attorney General for transmission to the members of the General Assembly.

Sec. 3. The original members of the Commission or their successors in office shall serve until the termination of the Commission. The Commission membership shall be continued at 30 members.

Sec. 4. This resolution shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 13th day of May, 1975.

S. R. 415 **RESOLUTION 60**

A JOINT RESOLUTION DIRECTING THE FISCAL RESEARCH DIVISION OF THE LEGISLATIVE SERVICES COMMISSION TO CONDUCT AN INVESTIGATION INTO THE PROPRIETY OF CERTAIN STATE FUNDING RELATING TO THE PLANNING AND DEVELOPMENT OF SOUL CITY.

Whereas, the Soul City portion of a regional water system will cost two million seven hundred thousand dollars ($2,700,000), including five hundred ninety-four thousand four hundred dollars ($594,400) in State Clean Water Bond funds; and

Whereas, road construction amounting to five hundred thirty-nine thousand three hundred ninety-seven dollars ($539,397) has been approved for Soul City, including one hundred seventy thousand three hundred forty-four dollars ($170,344) from the State Highway Fund; and

Whereas, the State Department of Administration has provided approximately eighty-three thousand three hundred eighty-seven dollars ($83,387) in planning grants for Soul City; and

Whereas, the State Department of Transportation has requested approximately twenty-eight thousand dollars ($28,000) in federal assistance to conduct a thirty-five thousand forty dollar ($35,040) mass transit study for Soul City; and

Whereas, the State of North Carolina has provided funds to the Warren Regional Planning Corporation for planning and development of Soul City and for the attraction of industry thereto; and

Whereas, the General Accounting Office has been requested by members of the Congress to investigate federal spending for Soul City; and

Whereas, future requests for State funds by the developers of Soul City are likely;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The Fiscal Research Division of the Legislative Services Commission is hereby directed to determine insofar as possible if the allocation and use of State funds relating to the planning and development of Soul City, Warren County, North Carolina, has been proper, and shall make its report to the General Assembly within 30 days of the ratification of this resolution.

Sec. 2. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of May, 1975.

H. R. 660 **RESOLUTION 61**

A JOINT RESOLUTION COMMENDING THE BASKETBALL, BASEBALL AND WRESTLING TEAMS OF NORTH CAROLINA A & T STATE UNIVERSITY.

Whereas, three varsity athletic teams at North Carolina Agricultural and Technical State University in Greensboro, namely the basketball, baseball, and wrestling, have represented the State in intercollegiate competition during the recently concluded seasons; and

Whereas, these A & T teams have dominated A & T's athletic conference, winning the championship in baseball and wrestling while capturing both the regular season and post season tournament crowns in basketball; and

Whereas, wrestling coach Mel Pinckney has been named "MEAC Coach of the Year" and "District 26 Coach of the Year"; and

Whereas, Melvin Groomes won his ninth championship in 20 years as head baseball coach; and

Whereas, Warren Reynolds, head coach of the A & T basketball team, has been named the MEAC's "Coach of the Year", and also the "Tournament Coach of the Year"; and

Whereas, Artis Stanfield became the first black player ever to win the National Collegiate Athletic Association batting championship on a major college level; and

Whereas, Stanfield also won the stolen base title; and

Whereas, Al Holland became the first black pitcher ever to win the NCAA's strikeout championship on a major college level; and

Whereas, Allen Spruill, a member of the A & T basketball team was named to the All-Conference Team, the All-Tournament Team, and the Greensboro Daily News All-State Team; and

Whereas, the individual members of each of these respective championship teams, throughout their seasons did exhibit the qualities of good sportsmanship, wholesome competition and the highest tradition of athletic skills;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the 1975 General Assembly, representing all the people of North Carolina, extends our appreciation and congratulations to the North Carolina A & T State University basketball, baseball, and wrestling teams and their coaches for their outstanding contribution to sports.

Sec. 2. That a copy of this resolution shall be duly certified by the Secretary of State and transmitted to Dr. Lewis C. Dowdy, Chancellor, North Carolina A & T State University, Greensboro, North Carolina.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of May, 1975.

H. R. 738 **RESOLUTION 62**

A JOINT RESOLUTION HONORING THE MEMORY OF LELIA VIOLA PATTERSON.

Whereas, Lelia Viola Patterson died March 22, 1975, at the age of 91; and

Whereas, Lelia Viola Patterson was born in Dade County, Missouri, on June 16, 1883; and

Whereas, Lelia Viola Patterson graduated from Northwestern Sanitarium at Fort Townsend located near Seattle, Washington, and in 1915 completed her education at Hinsdale Sanitarium and Hospital in Hinsdale, Illinois; and

Whereas, Lelia Viola Patterson moved to Asheville, North Carolina, and on June 15, 1920, she came to Fletcher, North Carolina, to work at the Mountain Sanitarium and Hospital; and

Whereas, Lelia Viola Patterson became superintendent of Mountain Sanitarium and Hospital and held that position until the fall of 1963 when she retired; and

Whereas, after retirement, she still took an active interest in Fletcher Hospital, where she visited patients, worked in the flower beds and took pride in the progress of the institution; and

Whereas, during her employment with Mountain Sanitarium and Hospital, now Fletcher Hospital, she delivered hundreds of babies, promoted good neighbor clubs, garden clubs, and community work in general; and

Whereas, Lelia Viola Patterson, through her devotion and efforts contributed much to the success of Mountain Sanitarium and Hospital and that said institution, now Fletcher Hospital, has made a vital contribution to Western North Carolina; and

Whereas, the people of North Carolina are saddened by the death of this good and talented woman and wish, through their representatives, to honor her memory and express sympathy to the surviving members of her family;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the North Carolina General Assembly recognizes and expresses its appreciation for the public services rendered by Lelia Viola Patterson, which services have contributed to the betterment of the State of North Carolina.

Sec. 2. That this resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of May, 1975.

S. R. 807 **RESOLUTION 63**

A JOINT RESOLUTION HONORING THE LIFE, MEMORY AND SERVICE OF CARLTON F. EDWARDS.

Whereas, Carlton F. Edwards distinguished himself through 20 years of service to the State and its citizens; and

Whereas, the tireless efforts and devotion to duty of Carlton F. Edwards as the Assistant State Budget Officer reflected the highest credit upon himself, his profession and to the State of North Carolina; and

Whereas, his ceaseless giving of himself to others through church and civic affiliations endeared himself to those with the good fortune to know him; and

Whereas, in the passing of Carlton F. Edwards, North Carolina has lost one of its most dedicated public servants; a man to whom service was both a vocation and an avocation;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly of North Carolina hereby expresses its sense of personal and professional loss in the death of Carlton F. Edwards and conveys its sympathy to the family of Mr. Edwards.

Sec. 2. A copy of this resolution shall be transmitted to the family of Carlton F. Edwards.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of May, 1975.

S. R. 611 **RESOLUTION 64**

A JOINT RESOLUTION DESIGNATING THE WEEK OF APRIL 21, 1975, TO APRIL 27, 1975, AS "COLLEGE NEWSPAPER WEEK".

Whereas, college newspapers on the campuses of our institutions of higher learning have served to provide a media for the dissemination of news and information among the student community; and

Whereas, college newspapers have also provided a forum for the exchange of opinion and beliefs among students and have encouraged such interaction; and

Whereas, many hundreds of students acquire valuable and rewarding experience working on the staffs of college newspapers, this experience for some serving as a foundation and introduction into the world of journalism as a profession; and

Whereas, college newspapers serve as the conduit through which many thousands of students may express themselves; and

Whereas, college newspapers function as an integral and important part of university affairs through their services to the student body;

But whereas, in no way is the passage of this resolution by the General Assembly to be interpreted by the students or the public as an endorsement of the content of any issue or issues of any newspaper or newspapers published on our college campuses;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The week of April 21, 1975, to April 27, 1975, is hereby designated "College Newspaper Week", and its observance is commended to the citizens of this State.

Sec. 2. This resolution shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 26th day of May, 1975.

S. R. 708 **RESOLUTION 65**

A JOINT RESOLUTION CONGRATULATING AND COMMENDING THE ELM CITY HIGH SCHOOL BASKETBALL TEAM OF ELM CITY FOR ITS PERFORMANCE AND SPORTSMANSHIP IN WINNING THE STATE 2-A CONFERENCE BASKETBALL CHAMPIONSHIP.

Whereas, the Elm City High School basketball team brought honor to Elm City and Wilson County by winning its second consecutive North Carolina State 2-A Championship; and

Whereas, the Elm City High School basketball team did display great sportsmanship, team play and skill to win this championship; and

Whereas, the team also won the Eastern Plains Conference Basketball Tournament for the second consecutive year; and the District Tournament for the second consecutive year; and

Whereas, each member of the team, Tony Edwards, Robert Pegues, John Virgil, Antony Farmer, Robert Atkinson, Gil Wheeler, Chris Ladson, Ronald Parker, Raymond Atkinson, Mahlon Pegues, Robert Batts, Danny Pender, Bennie Page, Prentice Brown, Gary Robbins, and Mike Pittman, did perform their best in the true tradition of good sportsmanship and finished in style; and

Whereas, the team received support and encouragement from the members of the cheerleading squad, Vickie Armstrong, Ann Galloway, Donna Allen, Kay Jenkins, Sandra Farmer, Cindy Jenkins, Debra Armstrong, Penny Cuddington, Ivora Davis, Betty Pearson, and their sponsor Carolyn Bost; and

Whereas, the members of the basketball team received loyal support from the administration, fellow students and faculty members of Elm City High School and from citizens of Elm City and Wilson County; and

Whereas, the Elm City High School basketball team did receive inspiration and instruction from the coach of the team, Harvey Reid, Jr., and assistant coach, Jimmy Howard;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the General Assembly of North Carolina extends congratulations to the entire basketball team, Coach Harvey Reid, Jr., Assistant Coach Jimmy Howard, and Principal Ray Lamm of Elm City High School in Elm City for the outstanding season the Elm City High School basketball team has had this and other years and for winning the North Carolina State 2-A Basketball Championship for two consecutive years.

Sec. 2. That the Secretary of State send a copy of this resolution to Principal Ray Lamm, Coach Harvey Reid, Jr., Assistant Coach Jimmy Howard, each member of the team, and the cheerleaders; and that the General Assembly directs that a copy of this resolution become a part of the permanent records of the State of North Carolina.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of May, 1975.

S. R. 730 **RESOLUTION 66**

A JOINT RESOLUTION HONORING ALBERT COATES, FOUNDER OF THE INSTITUTE OF GOVERNMENT AT CHAPEL HILL, PROFESSOR EMERITUS OF THE SCHOOL OF LAW AT THE UNIVERSITY OF NORTH CAROLINA, AND NORTH CAROLINA CITIZEN EXTRAORDINARY.

Whereas, Albert Coates has devoted his lifetime to the service of the cities, the counties and the State of North Carolina; and

Whereas, he founded, built and directed for more than 30 years the Institute of Government at Chapel Hill, an institution unique in the American states, dedicated to continuous study of the structure and working of government in the cities, the counties and the State of North Carolina; the results of these studies being set forth in guidebooks, taught in training schools, demonstrated in laboratories and kept up to date through a clearing house of governmental information to the end that standards of governmental performance at every level have moved upward constantly toward the level of the best; and

Whereas, 13 years after his retirement as Director of the Institute of Government, and seven years after his retirement as Professor of Law at the University of North Carolina, Albert Coates has given his full time and abilities without pay to working with teachers and students in the senior high schools and in the community colleges of North Carolina in the effort to bridge the gap between government as it is too often taught in the schools and as it is practiced in the city halls, the county courthouses and the State capital, with the result that increasing numbers of eighteen-year-old voters are going out into the bloodstream of the cities and counties and the State of North Carolina better prepared to measure up to their responsibilities as citizens; and

Whereas, in his work with the public schools, Albert Coates has expanded his program to include studies of the public service activities of civic organizations of men and women as indispensable supports of local governmental units and of the State, and is now setting forth the results of these studies in a volume to be used to enlighten and inform these civic organizations and to be taught and studied in the senior high schools and community colleges as a supplement to his book on *Bridging the Gap Between Government in Books and Government in Action*; and

Whereas, along with his work with governmental units and civic organizations of men and women and as part of his program of work with the youth of today who will become the officials and voters of tomorrow Albert Coates is now completing studies for a third book tracing the origin and growth of student activities, student councils, and student government in the universities, colleges, and high schools of the State as practical exercises in the responsibilities of citizens; and

Whereas, Albert Coates has also demonstrated his profound love for North Carolina and its people by producing a fascinating and enlightening series of publications on what the University of North Carolina at Chapel Hill, his home county of Johnston, and the State of North Carolina have meant to him; and

Whereas, Albert Coates is a very human man, conscious of his own frailties, tolerant of the frailties of others, able to laugh with others, and at himself, a man who aspires greatly, dreams unashamedly, and teaches gladly, a man of great talent, soaring spirit and infectious enthusiasm; and

Whereas, the stature of Albert Coates has cast and will continue to cast a giant glow of effective leadership and wise guidance upon the State of North Carolina and its cities and counties;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That Albert Coates be honored for his creative genius, and lifelong dedication to, and remarkable accomplishments in, the public service of the State of North Carolina to the eternal benefit of the State and its people.

Sec. 2. That Albert Coates and his devoted wife, Gladys Hall Coates, whose loyalty and perseverance sustained him and were essential to his achievement, be hereby recognized for the great achievements of founding and nurturing the Institute of Government at Chapel Hill and for inspiring remarkable progress in government and education, to the great benefit of the State of North Carolina and its officials and citizenry.

Sec. 3. That North Carolina, acting through its General Assembly, today salutes its distinguished native son, Albert Coates, with lasting gratitude for his unique accomplishments in advancing the cause and standards of government and the conduct of life for the State of North Carolina and its people.

Sec. 4. That this resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of May, 1975.

S. R. 748 RESOLUTION 67

A JOINT RESOLUTION CONGRATULATING AND COMMENDING THE NORTH CAROLINA RESTAURANT ASSOCIATION, INC., FOR SPONSORING COFFEE DAY TO RAISE FUNDS FOR CRIPPLED CHILDREN AND ADULTS IN NORTH CAROLINA THROUGH THE EASTER SEAL SOCIETY.

Whereas, the North Carolina Restaurant Association has recognized that crippled children and adults need a helping hand with special medical and rehabilitative services; and

Whereas, such services contribute to greater independence and achievement for those so handicapped, thus increasing the number of useful, dignified human lives, the right of the citizens to provide such services voluntarily is a sacred privilege of a free society; and

Whereas, the North Carolina Restaurant Association views the privilege of voluntary giving to help our fellow citizens as a tangible asset to all human dignity; and

Whereas, it is possible to finance such services through such a responsible and upstanding agency as the Easter Seal Society; and

Whereas, it is morally feasible under the basic American precepts of good citizenship for all residents of this State to help children with cerebral palsy and other crippling ailments; and

Whereas, the Easter Seal Society for Crippled Children and Adults of North Carolina, Inc., is equipped to provide specialized services of rehabilitation, medical and educational aid most efficiently and effectively; and

Whereas, 5,600 persons in North Carolina have received services through the Easter Seal Society in the past year; and

Whereas, this year restaurants, hotels, motels, and drug store lunch counters join the North Carolina Restaurant Association to implement "COFFEE DAY FOR CRIPPLED CHILDREN" with all proceeds from button sales going to aid the Easter Seal Society;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the General Assembly of North Carolina extends congratulations to the entire membership of the North Carolina Restaurant Association, officers, directors, and staff, and to the Easter Seal Society for this outstanding humanitarian effort, May 30, 1975.

Sec. 2. That the Secretary of State send a copy of this resolution to Ray Lackey, President, North Carolina Restaurant Association, Bobby Wilder, Chairman of the Board, T. Jerry Williams, Executive Vice-President, and to the Easter Seal Society; and that the General Assembly directs that a copy of this resolution become a part of the permanent records of the State of North Carolina.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of May, 1975.

H. R. 1046 RESOLUTION 68

A JOINT RESOLUTION CONGRATULATING AND COMMENDING NORTH CAROLINA SPECIAL OLYMPICS, INC., FOR SPONSORING SPECIAL OLYMPICS FOR MENTALLY RETARDED CHILDREN AND ADULTS IN NORTH CAROLINA TO PROVIDE PHYSICAL EDUCATIONAL OPPORTUNITIES.

Whereas, the Joseph P. Kennedy, Jr., Foundation, North Carolina Special Olympics, Inc., and its numerous community-sponsored Special Olympics programs seek to provide the mentally retarded with an annual program known as Special Olympics for the Mentally Retarded, whereby individuals who are mentally retarded can compete, competitively in such sports as swimming, broad jump, 50-yard and 100-yard dash, and even the mile run, and can be recognized for achievement by winning medals for their efforts;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That this joint resolution does commend to the citizens of North Carolina the efforts of those who make possible Special Olympics for the Mentally Retarded, and provide a much needed, appreciated and desired activity for those who are limited in opportunity.

Sec. 2. That the General Assembly of North Carolina does hereby extend its congratulations to the 10,000 participants in the Special Olympics program who, even though handicapped, display to their peers and others a competitive spirit that is beautiful to behold and will make May 23, 24 and 25, 1975, very

special days for very special people who will be competing in the 1975 State Games of the Special Olympics for the Mentally Retarded in Raleigh.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of May, 1975.

H. R. 1170 **RESOLUTION 69**

A JOINT RESOLUTION FIXING THE TIME AND PLACE FOR A JOINT SESSION OF THE SENATE AND HOUSE OF REPRESENTATIVES TO ACT ON CONFIRMATION OF APPOINTMENTS MADE BY THE GOVERNOR TO MEMBERSHIP ON THE STATE UTILITIES COMMISSION.

Whereas, under the provisions of G.S. 62-10(f) appointments made by the Governor to fill vacancies in the membership of the State Utilities Commission are subject to confirmation by the General Assembly; and

Whereas, the Governor has submitted to the presiding officers of the Senate and House of Representatives appointments to increase the number of Commissioners as required by G.S. 62-10(c);

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. It is the duty of the Senate Committee on Public Utilities and Energy and the House Committee on Public Utilities, in joint session, to screen each appointee of the Governor as to qualifications and background. The recommendation of the said committees, developed in joint session, shall be placed before a joint session of the House and Senate. The said committees may appoint a joint subcommittee to hold hearings and report its findings to the full committees.

Sec. 2. The Senate and House of Representatives shall meet in joint session on a date to be set by the Speaker of the House and the Lieutenant Governor in the House Chamber to receive the report of their committees and for the purpose of voting on confirmation of the appointments of the Governor to membership on the State Utilities Commission.

Sec. 3. Proceedings in the joint session shall be governed by the provisions of the Rules of the North Carolina House of Representatives, so far as those Rules may be applicable.

Sec. 4. In the event of failure of confirmation the Governor shall be immediately notified and shall be requested to submit replacement appointees within five days of receipt of notification for confirmation pursuant to G.S. 62-10 and this resolution.

Sec. 5. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of May, 1975.

H. R. 887 **RESOLUTION 70**

A JOINT RESOLUTION CONGRATULATING DAVID THOMPSON, NORTH CAROLINA STATE UNIVERSITY BASKETBALL PLAYER.

Whereas, David Thompson of Cleveland County, a graduate of Crest High School near Lattimore, North Carolina, has been an outstanding member of the North Carolina State University Wolfpack Basketball Team; and

Whereas, David Thompson has been unanimously selected as a First Team All-American for the third consecutive year; and

Whereas, during his college career David Thompson has led the North Carolina State Wolfpack to two championships in the Atlantic Coast Conference, the toughest nonprofessional basketball conference in the world, to one national championship, and to national ranking and recognition in all three of his seasons as varsity player; and

Whereas, David Thompson has set three conference individual records, including career scoring, and nine school individual records, and has helped North Carolina State set seven conference team records and 11 school team records; and

Whereas, David Thompson has ably represented the United States of America in basketball play in the World Games and other international play; and

Whereas, David Thompson has received numerous awards and honors, including selection as Player of the Year by both the Associated Press and the United Press International;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That this august body do honor and pay tribute to these outstanding achievements by David Thompson.

Sec. 2. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of May, 1975.

H. R. 1178 **RESOLUTION 71**

A JOINT RESOLUTION CONVENING THE GENERAL ASSEMBLY IN JOINT SESSION IN THE CHAMBER OF THE HOUSE OF REPRESENTATIVES IN THE CAPITOL.

Whereas, the North Carolina State Capitol, completed in 1840, is one of the finest and best preserved examples of a major civic building in the Greek Revival Style of architecture; and

Whereas, the Capitol housed all of State government until the 1880's, and has been the location and focal point of innumerable historical events up to the present time; and

Whereas, North Carolinians have long revered their State and national history and treasure the Capitol as a tangible reminder of this heritage; and

Whereas, the Capitol has been judged by the Secretary of the United States Department of the Interior to be a part of America's heritage and to possess significance for all Americans and to be worthy for a place on the department's roll of landmarks commemorating the nation's past; and

Whereas, a special ceremony has been scheduled to recognize the Capitol as a national historic landmark; and

Whereas, the General Assembly regularly convened in the Capitol through the year 1961 and has on occasion convened briefly and adjourned *sine die* there since 1961;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly convene in joint session in the Chamber of the House of Representatives in the Capitol at 6 p.m. on June 2, 1975, for the purpose of taking part in the ceremony during which the National Park Service of the United States Department of the Interior will present a certificate and a bronze plaque to the State of North Carolina recognizing the Capitol as a national historic landmark.

Sec. 2. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of May, 1975.

H. R. 672 RESOLUTION 72

A JOINT RESOLUTION URGING STATE AGENCIES, DEPARTMENTS AND INSTITUTIONS TO PURCHASE A PROPORTIONATE SHARE OF ALL SUPPLIES, COMMODITIES AND SERVICES FROM SMALL BUSINESSES IN THE STATE OF NORTH CAROLINA.

Whereas, the most basic and important element of the American economic system of free enterprise is free and vigorous competition; and

Whereas, such free and vigorous competition increases personal initiative and individual achievement; and

Whereas, small unaffiliated businesses are the backbone of the American economic system and the promotion and continuation of such small businesses is essential to the future welfare and economy of the nation; and

Whereas, the State of North Carolina is primarily a State of small and moderately sized communities in which there are literally hundreds of small independently owned and operated businesses; and

Whereas, it is in the best interest of the State of North Carolina that the small independently owned businesses in the State be encouraged and promoted whenever economically feasible; and

Whereas, it is in the best interest of such small businesses that State agencies, departments and institutions purchase a proportionate share of their supplies, commodities and services from small independently owned and operated businesses operating in the State;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly respectfully urges the various State agencies, departments and institutions to purchase a reasonably proportionate share of all supplies, commodities and services required by such agencies, institutions and departments from small independently owned and operated businesses within the State; provided, that the supplies, commodities and services of said small businesses are competitive as to price and quality with those of larger businesses.

Sec. 2. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of June, 1975.

H. R. 956 RESOLUTION 73

A JOINT RESOLUTION HONORING THE WESTERN CAROLINA UNIVERSITY FOOTBALL TEAM.

Whereas, the Western Carolina University Football Team completed its finest season in its 41-year history; and

Whereas, for the first time in the University's history the football team was selected for a national championship playoff; and

Whereas, for the first time in the University's history members of the football squad were named to first units of All-American Teams; and

Whereas, the Catamounts finished eighth in the nation in the final Associated Press College Division Poll for the 1974 season;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly of North Carolina hereby congratulates the Western Carolina University Football Team including the team members and the coaching staff for their accomplishments and achievements during the 1974 football season.

Sec. 2. That a copy of this resolution duly certified by the Secretary of State shall be sent to Coach Bob Waters and Chancellor Robinson of Western Carolina University.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of June, 1975.

H. R. 1011 RESOLUTION 74

A JOINT RESOLUTION HONORING THE LIFE, SERVICE AND MEMORY OF GLENN C. PALMER, SR.

Whereas, Glenn C. Palmer, Sr., one of North Carolina's most distinquished citizens, died on April 15, 1975, the General Assembly, in recognition of the deep debt which this State and its people owe to him, desires to honor his life, his service, and his memory; and

Whereas, Glenn C. Palmer, Sr., was born in the Cataloochee section of Haywood County, North Carolina, the son of the late Sheriff William A. and Milia Caldwell Palmer; and

Whereas, Glenn C. Palmer, Sr., was a leading businessman, and a director of the First Union National Bank from 1939 until he retired in 1972. He was also the Deputy Sheriff, a member of the Board of Trustees of Western Carolina College, Haywood County's Representative to the General Assembly from 1939 to 1947, a Haywood County Commissioner, and Haywood County Tax Collector. He was a former school teacher, a member of the Haywood County Board of Education for many years, and a member of the original Board of Trustees of the Haywood County Public Library, serving in that capacity for nearly 20 years. He was a member of the Board of Directors of the North

Carolina Rural Electrification Association for 24 years, a period spanning the administrations of six governors; and

Whereas, Glenn C. Palmer, Sr., devoted his full life to public service; and his contributions to his community, his State and nation are a symbol of a devoted career as a citizen and public servant to be long remembered in the distinquished history of this State;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly honors the memory of Glenn C. Palmer, Sr., and expresses the deep gratitude and appreciation of this State and its citizens for his life and service to North Carolina.

Sec. 2. That a certified copy of this resolution be transmitted by the Secretary of State to the family of Glenn C. Palmer, Sr.

Sec. 3. That this resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of June, 1975.

H. R. 1015 RESOLUTION 75

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF VIRGINIA T. LATHROP.

Whereas, Virginia Terrell Lathrop, who devoted a substantial part of her active and conscientious life to outstanding leadership on behalf of the cause of public higher education in North Carolina, died on December 1, 1974, it is fit and proper that this General Assembly acknowledge her eminent contributions to our State;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. Virginia Lathrop was an extraordinary human being whose sensitivity, intelligence, compassion, and strength touched countless lives and events. Her life was all the more remarkable because, as a woman, she could realize her great achievements only by overcoming those prevailing social expectations which then limited opportunities for women; and she transcended those limitations magnificently. All who were graced by the opportunity to share any experience with her admired and respected her. Those who were blessed by the opportunity to know her well loved her unreservedly. In her death, the State of North Carolina has lost a great citizen and a devoted counselor to The University of North Carolina.

Sec. 2. Virginia Lathrop's long period of service as a Trustee of The University of North Carolina began in 1949, when she was elected to membership on the Board of the University, which then consisted of three consolidated campuses. She served continuously from that time forward, on the Board of Trustees and then on the successor Board of Governors, for a total period of 25 years.

Sec. 3. As a human being, as a citizen, as a devoted wife, as a proud mother and grandmother, and as a servant of her fellow persons in many capacities, Virginia Lathrop afforded an example to be cherished and perpetuated through emulation.

Sec. 4. The General Assembly of North Carolina expresses its appreciation for the life, the service, and the example of Virginia Lathrop and directs that a copy of this resolution be duly certified by the Secretary of State and by him transmitted to the members of her family.

Sec. 5. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of June, 1975.

H. R. 1020 **RESOLUTION 76**

A JOINT RESOLUTION HONORING DIANE STRAWBRIDGE FOR HER EFFORTS IN CRIME PREVENTION.

Whereas, Diane Strawbridge, a 22-year old coed math education major at North Carolina State University spends at least 12 hours weekly writing letters and giving lectures and speeches to churches, high schools, P.T.A.'s and civic clubs, promoting crime prevention, penal reform, and prisoner rehabilitation programs; and

Whereas, Miss Strawbridge, the daughter of Mr. and Mrs. Harold Strawbridge of Durham, North Carolina, began her own personal "combat crime" campaign in July, 1972, because "she simply wants a safer world for her family to grow up in when she gets married and has children"; and

Whereas, on September 5, 1972, the governing body of the City of Durham adopted a resolution in support of the campaign being conducted by Diane Strawbridge; and

Whereas, Miss Strawbridge has received responses from over 17,000 people including the President of the United States, and many United States Senators and Representatives; and

Whereas, Diane Strawbridge was named outstanding Teenager of America, and the outstanding High School Student of America while attending Durham High School;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly of 1975 acknowledges and appreciates the conscientious service being rendered by Diane Strawbridge to her community and the State of North Carolina in the prevention of crime and the promotion of penal reform.

Sec. 2. That a copy of this resolution duly certified by the Secretary of State be sent to Miss Strawbridge.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of June, 1975.

H. R. 1109 **RESOLUTION 77**

A JOINT RESOLUTION HONORING A DEDICATED AND PROVEN PUBLIC SERVANT IN NORTH CAROLINA EDUCATION.

Whereas, Luther R. Medlin has completed more than 42 years in dedicated educational service to the people of North Carolina and has publicly announced his retirement effective June 30, 1975; and

Whereas, the last eight years of said public service has been in the capacity of President of Guilford Technical Institute at Jamestown, North Carolina, and has directly led to the growth and development of an entirely new campus with five new buildings well furnished and equipped; and

Whereas, under the leadership of Luther R. Medlin the faculty and staff of Guilford Technical Institute have increased in number, quality and standards in proportion to the Institute's annual enrollment growth which, during the past eight years, has advanced the Institute from one of the smallest technical institutes in North Carolina to one of the largest; and

Whereas, thousands of students have received quality educations at Guilford Technical Institute under the administrative leadership of Luther R. Medlin and have benefited the economy of North Carolina in their subsequent roles as taxpayers, employers, employees and consumers; and

Whereas, the said Luther R. Medlin has administratively directed Guilford Technical Institute in its becoming a strong arm in the county through its cooperative work with industrial, commercial, health, and other agencies within the county; and

Whereas, it is unusual for a president within the Community College System to see completed and dedicated at the same time on June 29, 1975, two new buildings totaling more than 120,000 square feet involving a Campus Center and a Learning Resource Center at a cost of some three million dollars ($3,000,000) to provide still better service and training to the people of Guilford County above high school age;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The State of North Carolina recognizes the outstanding contribution made by Luther R. Medlin to the citizenry of the State of North Carolina through his dedication and innovative leadership as President of Guilford Technical Institute from his inauguration on September 15, 1967, until his retirement on June 30, 1975.

Sec. 2. That a certified copy of this resolution be transmitted by the Secretary of State to the Trustees of Guilford Technical Institute and the communications media in the area.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of June, 1975.

H. R. 1112

RESOLUTION 78

A JOINT RESOLUTION CONGRATULATING THE ELIZABETH CITY COAST GUARD RESERVE UNIT FOR WINNING THE ROA CONGRESSIONAL AWARD FOR 1974.

Whereas, the Coast Guard Washington, D.C., Chapter of the Reserve Officers Association, the sponsor of the ROA Congressional Award, each year selects a Coast Guard Reserve Unit which it considers to be the most outstanding in terms of the "citizen-sailor" concept; and

Whereas, the major factors of consideration in this award are mobilization readiness, augmentation training activities and involvement in community-related projects; and

Whereas, the ROA Congressional Award for fiscal year 1974 was won by the Coast Guard Reserve Unit, Elizabeth City, North Carolina, whose Commanding Officer is LCDR H. H. Odom, USCGR; and

Whereas, in winning this award this dynamic Reserve Unit has demonstrated its leadership in maintaining a high degree of military readiness, morale and civic responsibility and should be congratulated for this accomplishment;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly hereby expresses its congratulations to the Coast Guard Reserve Unit, Elizabeth City, North Carolina, and its Commanding Officer, LCDR H. H. Odom, USCGR for the Unit's great achievement in being designated as the winner of the ROA Congressional Award for fiscal year 1974.

Sec. 2. That a copy of this resolution be forwarded to the Commanding Officer of the Coast Guard Reserve Unit, Elizabeth City, North Carolina.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of June, 1975.

H. R. 1145

RESOLUTION 79

A JOINT RESOLUTION COMMENDING SPECIAL AGENT ALBERT SUMNER STOUT, JR., STATE BUREAU OF INVESTIGATION, FOR HIS DEDICATION, BRAVERY, AND EFFECTIVENESS IN COUNTERACTING UNLAWFUL DRUG TRAFFIC.

Whereas, Special Agent Albert Sumner Stout, Jr., was seriously injured on the morning of September 10, 1974, when an incendiary device attached to his car by traffickers in narcotic drugs exploded, and

Whereas, Special Agent Albert Sumner Stout, Jr., had been singled out for this vile assault due to his extraordinary effectiveness in the field of drug enforcement, and

Whereas, Special Agent Albert Sumner Stout, Jr., has exhibited dedication and commitment to law enforcement and bravery in the execution of his hazardous duties since 1969 when he became a law enforcement officer; first as a deputy sheriff in the Rowan County Sheriff's Department and since 1972 as a special agent with the State Bureau of Investigation, and

Whereas, in the months since his severe injury, Special Agent Albert Sumner Stout, Jr., has remained steadfast in his resolution to continue in law enforcement in spite of his injuries and to do whatever possible to combat the menace of illegal drugs in our State, and

Whereas, in the months since his severe injury Special Agent Albert Sumner Stout, Jr., and his family, by their continued dedication to and abiding faith in the ideals of law enforcement, have served as a source of inspiration to all members of the State Bureau of Investigation as they pursue their duties;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the 1975 General Assembly, representing all the people of North Carolina, extends its appreciation and commendation to Special Agent Albert Sumner Stout, Jr., for exemplifying those admirable qualities which both State and local law enforcement officers seek to achieve, and for risking his life in order that the people of the State of North Carolina might be protected from the menace of illegal drugs.

Sec. 2. That the Secretary of State of North Carolina send official copies of this resolution to Albert Sumner Stout, Jr., and his family.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of June, 1975.

H. R. 1006 RESOLUTION 80

A JOINT RESOLUTION HONORING THE MEMORY OF DR. MARTIN LUTHER KING, JR., BY DESIGNATING JANUARY 15 OF EACH YEAR AS THE ANNIVERSARY OF HIS BIRTH DATE.

Whereas, Dr. Martin Luther King, Jr., was born in Atlanta, Georgia, on January 15, 1929, and preached the goodwill doctrine of Christianity and the Gandhian philosophy of civil disobedience in "a moral crusade" against the embattled strongholds of racial segregation; and

Whereas, Dr. Martin Luther King, Jr., believed and strove to ascertain that nonviolence has been the most effective weapon in the Black man's fight for justice in the United States and may prove to be the answer to the need of all humanity; and

Whereas, Dr. Martin Luther King, Jr.'s beleaguered efforts as a civil rights leader won him the Nobel Peace Prize in 1964, at the age of 35; the youngest man to be awarded the prize; and

Whereas, Dr. Martin Luther King, Jr., served as co-pastor of the Ebenezer Baptist Church in Atlanta, Georgia, and channeled most of his civil rights activities through the Southern Christian Leadership Conference, of which he was president; and

Whereas, Dr. Martin Luther King, Jr.'s many accomplishments included advancing the cause of equal rights for Blacks by the demonstrations he led, beginning with the Montgomery, Alabama, bus boycott in 1956, and including the 1965 voter registration drive in Selma, Alabama; participating as the dominant figure in the massive 1963 March on Washington, D. C., and highlighting the march with his "I Have a Dream" speech which echoed the Bible, the Constitution, and the National Anthem, which reassured the

multitudes that the prophecy of equality and freedom for Blacks would yet all come true; and

Whereas, Dr. Martin Luther King, Jr., taught this nation that wrongs can be made right through the faith and hope of nonviolent activities and his assassination on April 4, 1968, in Memphis, Tennessee, was a great loss to our nation and all of humanity; and

Whereas, Dr. Martin Luther King, Jr., the man, can accurately be assessed as "an indescribable capacity for empathy that is the touchstone of leadership".;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the 15th day of January of each year shall be designated as the anniversary of the birth date of Dr. Martin Luther King, Jr., in honor of his life, service and memory.

Sec. 2. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of June, 1975.

S. R. 225 RESOLUTION 81

A JOINT RESOLUTION IN OPPOSITION TO PENDING LEGISLATION IN THE UNITED STATES SENATE TO INCREASE THE FEDERAL TAX ON MOTOR FUEL.

Whereas, legislation is now being considered by the United States Senate to increase the federal tax on motor fuel; and

Whereas, any increase in the federal tax on motor fuel will drive the price of gasoline to the individual consumer to a prohibitive level; and

Whereas, the significant portion of our population who use their automobiles in their work or commute from great distances to their jobs and who are least able to pay for such gasoline increases will be effectively deprived of their livelihood should this tax take effect; and

Whereas, the farmers of this country who supply our food and form the very backbone for this nation's future sustenance and well-being will particularly feel the adverse effect of this proposed tax; and

Whereas, by reason of the general decline in the economy and the decrease in the collection of State motor fuel taxes, the State is now in great need of additional funds for the maintenance and improvements of its highways; and

Whereas, any substantial increase by the federal government in its motor fuel taxes would constitute a further diversion of the source of revenues upon which the State is dependent for its highway maintenance and construction;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the General Assembly of North Carolina urges that the Congress of the United States pass no legislation that would increase the federal tax on motor fuel in view of the certain terrible economic consequences that will result to all segments of the population of this country.

Sec. 2. That a copy of this resolution be transmitted to the Speaker of the United States House of Representatives, the President of the United States Senate and each member of the North Carolina Delegation to the United States Congress.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of June, 1975.

S. R. 657 RESOLUTION 82

A JOINT RESOLUTION DESIGNATING THE BRIDGE TO BE CONSTRUCTED TO SPAN THE YADKIN RIVER AT SILOAM, NORTH CAROLINA, THE ATKINSON-NEEDHAM MEMORIAL BRIDGE.

Whereas, Hugh and Ola Atkinson, natives of Surry County, North Carolina, and longtime residents of Surry County were killed during the accidental collapse of the Siloam Bridge on February 23, 1975; and

Whereas, Hugh and Ola Atkinson were leaders in both business and civic affairs in their community; and

Whereas, Hugh and Ola Atkinson have long been highly respected as pillars of their community and worked tirelessly in church affairs; and

Whereas, Judy Brown Needham and daughter, Andrea, natives and residents of Surry County, North Carolina, were killed during the accidental collapse of the Siloam Bridge on February 23, 1975; and

Whereas, the Needham family has been highly respected for their involvement in local community and church affairs; and

Whereas, the General Assembly of North Carolina desires to honor the life and memory of these fine North Carolinians;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the North Carolina Board of Transportation be urged to name the bridge to be constructed to replace the Siloam Bridge in Surry County the "Atkinson-Needham Memorial Bridge" to honor their memory.

Sec. 2. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of June, 1975.

S. R. 627 RESOLUTION 83

A JOINT RESOLUTION URGING THAT CONGRESS ENACT H.R. 1991 PROVIDING FOR A STUDY OF PROPOSED NATIONAL SCENIC BICYCLE TRAILS.

Whereas, bicycling is an energy-saving, non-polluting, healthy, and enjoyable means of transportation; and

Whereas, bicycling has become an increasingly popular sport in North Carolina and the United States as a whole; and

Whereas, national scenic bicycle trails would be a stimulus to wider use of bicycles both for recreation and as a substitute for other forms of transportation; and

Whereas, national scenic bicycle trails would create extensive opportunities for outdoor recreation and exercise; and

Whereas, national scenic bicycle trails would be desirable additions to the National Trails System; and

Whereas, national scenic bicycle trails could provide important links between local bicycle trails;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly of North Carolina urges the Congress of the United States to pass H.R. 1991, thereby authorizing a study of the feasibility of establishing national scenic bicycle trails as part of the National Trails System.

Sec. 2. Copies of this resolution shall be sent to the President of the United States, the Vice-President of the United States, the Speaker of the House of Representatives, the Congressional Delegation from North Carolina, the Governor of the State of North Carolina, and members of the House Committee on Interior and Insular Affairs.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of June, 1975.

S. R. 805 RESOLUTION 84

A JOINT RESOLUTION HONORING THE LIFE, SERVICE AND MEMORY OF THE MOST REVEREND VINCENT S. WATERS, D.D., BISHOP OF THE ROMAN CATHOLIC DIOCESE OF RALEIGH.

Whereas, Bishop Vincent Stanislaus Waters, D.D., of the Diocese of Raleigh, one of North Carolina's most distinguished citizens and renowned religious leaders, died December 3, 1974, the General Assembly, in recognition of his contributions to his own Church and his concern for the needs of all North Carolinians of whatever religious affiliation, spiritual condition and racial or ethnic origin, desires now to honor his life, service and memory; and

Whereas, Bishop Waters, born in Roanoke, Virginia, August 15, 1904, began his priestly studies at Belmont Abbey in Gaston County, North Carolina, attended the North American College in Rome, Italy, was ordained a priest for the Diocese of Richmond, Virginia, in Rome on December 8, 1931, was appointed Bishop of Raleigh on March 10, 1945, and was consecrated Bishop of Raleigh on May 15, 1945, exactly 30 years ago this day; and

Whereas, at the time of his appointment and consecration as Bishop of Raleigh said diocese comprised all of the State of North Carolina with the exception of Gaston County and later also included Gaston County, excepting the actual grounds of Belmont Abbey, until January 12, 1972, when the Diocese of Charlotte was established to include 46 western North Carolina counties; and

Whereas, when the Diocese of Raleigh included the entire State, the North Carolina Catholic Layman's Association, the *North Carolina Catholic*, the Catholic Historical Society of North Carolina, and numerous other means of serving his co-religionists and all residents of North Carolina were established by Bishop Waters; and

Whereas, under his guidance the North Carolina Catholic Layman's Association and the *North Carolina Catholic* were dedicated from their inception to the recognition and support of the dignity of all persons regardless of race, creed or color; and

Whereas, the *North Carolina Catholic* received in 1949 the top editorial award of the Catholic Press Association of the United States for an editorial

decrying racial discrimination entitled "Civil Wrongs" and the Diocese of Raleigh desegregated its parochial school system in 1953, the year before the United States Supreme Court decision with respect to racial segregation in public schools; and

Whereas, Bishop Waters, always an example of Christian living and leadership according to his convictions, became a legend in his own time and will be long remembered for his service in North Carolina;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the General Assembly honors the memory of the Most Reverend Vincent S. Waters, D.D., late Bishop of Raleigh, and expresses the gratitude and appreciation of the people of the State for his years of service to North Carolinians.

Sec. 2. That a certified copy of this resolution be transmitted by the Secretary of State to Bishop F. Joseph Gossman, D.D., successor to Bishop Waters as Bishop of Raleigh.

Sec. 3. That this resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of June, 1975.

S. R. 877 RESOLUTION 85

A JOINT RESOLUTION COMMEMORATING THE LATE ESTHER DELIA HUNT MOORE, EDUCATOR, COMMUNITY LEADER, AND DISTINGUISHED CITIZEN.

Whereas, Mrs. Esther Delia Hunt Moore, a distinguished educator, scholar and highly honored and recognized North Carolina citizen, died in Hickory, North Carolina, on the twentieth day of May, 1975; and

Whereas, Mrs. Esther Delia Hunt Moore began her teaching career in the Catawba County Schools in 1920 as a choral music teacher. She became the first special education teacher at Central High School in Newton, North Carolina, and retired from classroom teaching in 1966 to accept a position as counselor at Bennett College in Greensboro; and

Whereas, Mrs. Esther Delia Hunt Moore was active in community affairs and civic groups as evidenced by the fact that she organized the woman's auxiliary to the Eastern Star Lodge, the auxiliary to the Veterans of Foreign Wars Post 9881, and the Hickory Woman's Civic Club, and she served on the Board of Directors of Family Guidance Center; and

Whereas, Mrs. Esther Delia Hunt Moore was a leader of the black race in the field of political involvement as evidenced by the fact that in the early 1930's she became the first black to register to vote in Catawba County; and

Whereas, Mrs. Esther Delia Hunt Moore was recognized and honored on the State and national level by being chosen as the State and national Mother of the Year in 1972 on the basis of the success of her three children, her church work, her courage, cheerfulness, patience, affection, kindness, understanding and homemaking ability, her exemplification of the Golden Rule and her civic work; and

Whereas, Mrs. Esther Delia Hunt Moore received the very high national honor of being inducted into the Woman's Hall of Fame in 1973 for her outstanding contributions to American society;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That in the death of Mrs. Esther Delia Hunt Moore the State has lost one of its most active and distinguished public servants and citizens.

Sec. 2. That the General Assembly of North Carolina does hereby express its appreciation and acknowledgement of the great service rendered to this State in the field of education and civic affairs by Esther Delia Hunt Moore.

Sec. 3. That the General Assembly extends its deepest sympathy to the family of Esther Delia Hunt Moore for the loss of its distinguished member.

Sec. 4. That this resolution shall become part of the public records of this session of the General Assembly and a copy shall be certified by the Secretary of State and transmitted to the family of Esther Delia Hunt Moore.

Sec. 5. That this resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of June, 1975.

S. R. 715 RESOLUTION 86

A JOINT RESOLUTION CONCERNING THE NEED FOR FEDERAL ASSISTANCE IN THE PAYMENT OF TUITION COSTS BY MILITARY PERSONNEL, THEIR SPOUSES AND DEPENDENTS, DESIRING TO ATTEND COMMUNITY COLLEGES, TECHNICAL INSTITUTES, INDUSTRIAL EDUCATION CENTERS, UNIVERSITIES AND OTHER INSTITUTIONS OF HIGHER EDUCATION WITHIN NORTH CAROLINA WHILE SUCH MILITARY PERSONNEL ARE ASSIGNED TO DUTY IN NORTH CAROLINA.

Whereas, substantial numbers of military personnel, with their dependents, are assigned to duty stations within North Carolina by the Department of Defense or other United States governmental departments and agencies; and

Whereas, many of these persons desire to attend institutions located within North Carolina for the further advancement of their education and hence their professionalism and their value to their federal employers, but are finding such pursuits increasingly difficult in the face of inexorably rising tuition costs at said institutions of higher education; and

Whereas, these members of the military community within North Carolina are often ineligible to qualify as residents of this State for various reasons, including their wish to maintain residency in their home states or the fact of not having lived in North Carolina for a sufficient period of time, and must therefore pay the higher out-of-state tuition costs in order to advance their education at a North Carolina institution of higher education; and

Whereas, the difference in cost between in-state and out-of-state tuitions at said North Carolina schools may cause the military service member or his dependent to forego immediate plans for educational advancement, to the ultimate disadvantage of these military services; and

Whereas, one branch of the military service that recognizes the immense value of continuing education of its members has embarked upon an ambitious

and expensive program entitled "Project Ahead", in which the army will pay up to seventy-five percent (75%) of the entire tuition costs for certain qualified inductees at the college or university of their choice, stating in its advertisements for this program, "Because while you're working toward a college degree, you'll be serving your country";

Now, therefore, be it resolved by the Senate of the State of North Carolina, the House of Representatives concurring, in respectful petition to the Congress of the United States of America:

Section 1. That the Congress of the United States of America take note of the numbers of military personnel and their dependents assigned to duty within the State of North Carolina who wish to continue their progress in higher education, of the substantial differential between in-state and out-of-state tuition costs at North Carolina's institutions of higher education and the impact such differentials may have on the personal decisions of service families to continue their education, and of the problems of many military families in qualifying for North Carolina's in-state tuition rates.

Sec. 2. That the Congress of the United States of America consider enacting legislation enabling the payment from general appropriations of a direct subsidy to certain military service personnel or their dependents who are actually attending institutions of higher education in North Carolina but are ineligible for in-state tuition rates, in the amount of the difference between the in-state and out-of-state tuition costs for said service family member at said educational institution.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of June, 1975.

S. R. 848 RESOLUTION 87

A JOINT RESOLUTION CALLING FOR A CONGRESSIONAL INVESTIGATION INTO ACTIVITIES OF PRIVATE INDUSTRY WITH RESPECT TO COAL.

Whereas, there has been, since 1962, a significant shift in the control of the coal industry, resulting in greatly increased concentration of ownership; and

Whereas, coal production has declined since 1970, and this decline does not appear due to any incapacity to produce more coal; and

Whereas, there have been phenomenal increases in coal prices and coal profits in the past five years; and

Whereas, prices being charged for coal are far in excess of any which could reasonably be attributed to increased costs of production or related natural causes; and

Whereas, America's electric utility companies, which buy approximately 65% of our domestic coal, have been severely burdened with increased costs of coal, resulting in higher electric rates for the people of North Carolina and the rest of the United States; and

Whereas, federal agencies have not yet conducted complete and comprehensive investigations into the coal industry;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The North Carolina General Assembly urges the Committee on Rules of the United States House of Representatives to take swift and affirmative action on House Resolution 264, directing the Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce to conduct an inquiry into certain activities of private industry and the federal government with respect to coal.

Sec. 2. The North Carolina General Assembly urges Representative John Moss, the Honorable Chairman of the Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce in the United States House of Representatives, to expand the scope of that subcommittee's inquiries into fuel adjustment clauses so as to include a complete and comprehensive investigation into the coal industry.

Sec. 3. Upon ratification of this resolution, the Secretary of State is directed to send copies to the following members of Congress:

(a) Speaker of the House, Representative Carl Albert;

(b) House Majority Leader, Representative Thomas P. O'Neill, Jr.;

(c) House Minority Leader, Representative John J. Rhodes;

(d) Members of the Committee on Rules, including Representatives Ray J. Madden, Chairman, James J. Delaney, Richard Bolling, B. F. Sisk, John Young, Claude Pepper, Spark M. Matsunaga, Morgan F. Murphy, Gillis W. Long, Joseph Moakley, Andrew Young, James H. Quillen, John B. Anderson, Delbert L. Latta, Del Clawson, and Trent Lott;

(e) Representative Harley O. Staggers, Chairman of the House Committee on Interstate and Foreign Commerce;

(f) Members of the Subcommittee on Oversight and Investigations of the House Interstate and Foreign Commerce Committee, including Representatives John E. Moss, Chairman, Richard L. Ottinger, Robert Krueger, Anthony Moffet, James Santini, Williamson S. Stuckey, James H. Scheur, Henry A. Waxman, James M. Collins, Norman F. Lent, and Edward R. Madigan;

(g) The North Carolina Congressional delegation, including Senator Jesse Helms, Senator Robert Morgan, Representatives Walter B. Jones, L. H. Fountain, David N. Henderson, Ike F. Andrews, Stephen L. Neal, L. Richardson Preyer, Charles Rose, W. G. Hefner, James G. Martin, James T. Broyhill, and Roy A. Taylor; and

(h) Representative John Jenrette.

Sec. 4. This resolution shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 11th day of June, 1975.

S. R. 779 RESOLUTION 88

A JOINT RESOLUTION TO INSURE VEHICULAR ACCESS AND GUEST PRIVILEGES TO CURRITUCK COUNTY OUTER BANKS PROPERTY OWNERS AND LESSEES ACROSS BACK BAY WILDLIFE REFUGE UNTIL COMPLETION OF PERMANENT ACCESS FROM CURRITUCK COUNTY OUTER BANKS TO CURRITUCK COUNTY MAINLAND.

Whereas, the current rules plan of the United States Department of Interior as relates to vehicular access across the tidal beach area of the Back Bay Wildlife Refuge in Virginia Beach, Virginia, places an intolerable burden of extra travel, inconvenience and expense upon Currituck County Outer Banks property owners and lessees in traveling to their resort and retirement residences; and

Whereas, the United States Department of Interior has not provided a reasonable alternate access route of travel prior to implementation of the current rules plan; and

Whereas, Currituck County Outer Banks property owners and lessees have no reasonable access to their property; and

Whereas, property owners and lessees of the False Cape Park acquisition area in Virginia are permitted vehicular access across the Back Bay Wildlife Refuge by the current rules plan; and

Whereas, Currituck County Outer Banks property owners and lessees are not permitted vehicular access across the Back Bay Wildlife Refuge by the current rules plan; and

Whereas, the current United States Department of Interior rules plan discriminates between vehicular access for False Cape State Park acquisition area property owners and lessees, and vehicular access for Currituck County Outer Banks property owners and lessees; and

Whereas, the North Carolina Department of Transportation has adopted a set of priorities relating to Currituck County Outer Banks access; and

Whereas, the United States Department of Interior did allow vehicular access across Back Bay Wildlife Refuge for Currituck County Outer Banks property owners and lessees for two years under the terms of an injunction issued by United States District Judge John A. MacKenzie;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the North Carolina delegation to the Congress of the United States be and the same are hereby requested to investigate with the United States Department of Interior the possibility of extending vehicular access and guest privileges to Currituck County Outer Banks property owners and lessees which are afforded False Cape State Park acquisition area property owners and lessees under the regulations of the current rules plan. Such vehicular access and guest privileges are to be granted as a temporary condition terminating with completion of a permanent access facility from the Currituck County Outer Banks to the Currituck County mainland.

Sec. 2. That a copy of this resolution be transmitted to Secretary of the Interior evidencing the resolve of the General Assembly of the State of North Carolina.

Sec. 3. That a copy of this resolution be transmitted to each member of the North Carolina delegation to the Congress of the United States.

Sec. 4. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of June, 1975.

H. R. 790 **RESOLUTION 89**

A JOINT RESOLUTION DIRECTING THE UNIVERSITY OF NORTH CAROLINA TO EXPLORE THE MEANS TO DEVELOP A STATEWIDE NONCOMMERCIAL FM RADIO SERVICE.

Whereas, the University of North Carolina now operates a superior educational television network which serves substantially all of the population of the State of North Carolina with noncommercial programming; and

Whereas, the University of North Carolina plans to place in operation in 1975 a publicly funded full-service FM radio station which will serve a portion of central North Carolina with noncommercial programming; and

Whereas, the University of North Carolina could extend the range of the new FM broadcasting signal to substantially all of the citizens of North Carolina by augmenting existing equipment;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the University of North Carolina explore the means to develop a statewide noncommercial FM radio service.

Sec. 2. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1975.

H. R. 963 **RESOLUTION 90**

A JOINT RESOLUTION HONORING THE EMERGENCY ACTION TAKEN BY GARY PHILLIP RAMSEY.

Whereas, Gary Phillip Ramsey is a 16 year old young adult residing at Route 3, Leicester, North Carolina, and attending Erwin High School in Asheville, North Carolina; and

Whereas, Gary Ramsey is employed as a school bus driver after school; and

Whereas, Gary Ramsey was so employed on April 1, 1975; and

Whereas, on April 1, 1975, twin boys of approximate age 20 months had been rendered unconscious from inhaling carbon monoxide gases while riding in a motor vehicle; and

Whereas, Gary Ramsey was called upon to assist said unconscious boys by relatives and acquaintances of the two boys; and

Whereas, Gary Ramsey did give, without hesitation, such requested assistance by applying artifical respiration to each unconscious boy; and

Whereas, had it not been for the assistance of Gary Ramsey, the young boys in all likelihood would have suffered either death or serious injury as a result of their inhaling carbon monoxide gases; and

Whereas, the prompt and unselfish assistance rendered by Gary Ramsey represents a fine example of good citizenship to other young adults of North Carolina;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly recognizes and is proud of Gary Phillip Ramsey for his prompt rescue actions preventing the loss of life to twin boys on April 1, 1975.

Sec. 2. That a copy of this resolution shall be duly certified by the Secretary of the State and by him transmitted to Mr. Gary Ramsey, Route 3, Leicester, North Carolina.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1975.

S. R. 563 RESOLUTION 91

A JOINT RESOLUTION DIRECTING THE LEGISLATIVE RESEARCH COMMISSION TO STUDY THE ISSUE OF SPEEDY TRIALS.

Whereas, the General Assembly is concerned about improving the efficiency of the criminal justice system and in assuring swift and judicious handling of all cases coming before the criminal division of the General Court of Justice; and

Whereas, law enforcement authorities, including the Federal Bureau of Investigation, have for some time recognized that among the most effective deterents to crime are swiftness and certainty in the administration of justice; and

Whereas, the Constitution of the United States guarantees to the accused the right of a speedy and public trial; and

Whereas, there have been various speedy trial proposals introduced in the General Assembly over the past three years; and

Whereas, at least four such proposals have been introduced during the 1975 Session of the General Assembly; and

Whereas, the Crime Study Commission in 1974 recommended the implementation of a speedy trial bill for North Carolina; and

Whereas, the United States Congress and 22 states have now adopted some type of speedy trial legislation; and

Whereas, the Criminal Procedure Act has speedy trial provisions which shall become effective on September 1, 1975; and

Whereas, the effectiveness of those provisions should be evaluated;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the Legislative Research Commission is directed to:

(1) Study and develop appropriate guidelines for continuing of cases, especially at district court and superior court levels, and systematic sanctions for those who violate these guidelines.

(2) Recommend a mandatory period or periods in which an accused must be tried, preferably no longer than three months from the date of arrest. This would eliminate the lack of timely trials and provide certainty of immediate punishment.

(3) Study the possibility of developing a system similar to the PIN (Police Information Network) to be installed in each clerk of court office, whereby an up-to-date record of every accused be available, and his past record be a part of all future trials. The commission should include in its study the cost of such a network.

(4) Review the effectiveness of the Speedy Trials Act passed in 1974 by the United States Congress as well as the experience of other states which have adopted similar legislation.

(5) Study the possibility of the release of the accused due to technicality in cases where no miscarriage of justice has occurred.

(6) Monitor the implementation of Article 35 of Chapter 15A in reducing court delay in the processing of criminal cases, and to receive periodic input from the administrative office of the courts relating to this issue.

(7) Work with court personnel throughout the State in determining what additional resources might be needed to effectuate any speedy trial proposal the commission might wish to recommend.

(8) Study, review, and hear testimony on all other matters directly related to the development of a comprehensive proposal to promote speedy trials in North Carolina.

The Legislative Research Commission shall report its findings and recommendations to the next session of the General Assembly.

Sec. 2. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of June, 1975.

S. R. 918 RESOLUTION 92

A JOINT RESOLUTION HONORING THE MEMORY OF HAROLD K. COLLINS OF DURHAM.

Whereas, Harold K. Collins, a distinguished educator from Durham County, died May 15, 1975, while serving as President of Durham Technical Institute; and

Whereas, Harold K. Collins was born March 20, 1910, in Danville, Illinois; was reared in Maysville, Kentucky; was educated at East Kentucky State College, Richmond, Kentucky; Transylvania College, Lexington, Kentucky; Morehead State University, Morehead, Kentucky (B.S. 1937); and North Carolina State University, Raleigh, North Carolina (M.E. 1965); was married to Edna Pearson; was a Methodist, a Jaycee, and a Civitan Club Member; and

Whereas, after receiving his degree from Morehead State University, he came to Durham as a teacher of building trades at Durham High School, holding this position until 1942, when he was appointed Director of Vocational and Adult Education, and in 1961 became President of Durham Technical Institute, which is one of 56 units in the North Carolina Community College System. His experience as a teacher and administrator in Vocational and Technical Education covered over 30 years of continuous service, and his leadership resulted in a myriad of programs designed to equip his fellowman with saleable skills. In 1948, under his supervision, the first program for Practical Nurse Education in North Carolina was established. This program has been in continuous operation since its organization. During the past 20 years, he was also instrumental in the development of programs of training in: Nurses' Assistants, Dental Laboratory Technicians, Hospital Ward Clerks, Medical Secretaries, Psychiatric Nurses' Assistants, Ophthalmic Dispensers, Optical Technicians, Inhalation Therapists, Orderlies, and others. Further, he was instrumental also in developing short courses in the Health Auxiliary field and for several years served as a member of the North Carolina Advisory Committee for Practical Nurse Education, and as a consultant to the Committee for Dental Auxiliary Occupations; and

Whereas, he served in an executive capacity in local, State, and frequently in national occupational education organizations, including the American

Vocational Association, the North Carolina Vocational Association, the North Carolina Education Association, the American Technical Education Association, the National Council of Local Administrators, and the North Carolina Council of Local Administrators; and served as President of the National Council of Local Administrators in 1960;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That by this resolution the General Assembly recognizes that with the death of Harold K. Collins the State of North Carolina as well as the County of Durham has lost a distinguished citizen, and therefore expresses to his family its sympathy in their loss.

Sec. 2. That a copy of this resolution shall be duly certified by the Secretary of State and shall be transmitted by him to the family of Harold K. Collins.

Sec. 3. That this resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of June, 1975.

H. R. 889 RESOLUTION 93

A JOINT RESOLUTION MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO AMEND THE CLEAN AIR ACT OF 1970.

Whereas, The Clean Air Act of 1970 states that its primary purpose is "to protect and enhance the quality of the nation's air resources so as to promote the public health and welfare and the productive capacity of its population"; and

Whereas, in order to carry out this purpose of The Clean Air Act, the Environmental Protection Agency promulgated on April 30, 1971, national primary and secondary ambient air quality standards to be achieved by the states through State Implementation Plans; and

Whereas, the Implementation Plan for the State of North Carolina was approved by the EPA on May 31, 1972, and provides for the achievement and maintenance of primary and secondary ambient air quality standards by May 31, 1975, through the approval and implementation of control programs for the reduction of emissions; and

Whereas, the implementation of control programs by both governmental and private sources will require the expenditure of substantial capital funds in order to achieve compliance with the national ambient air quality standards in many states; and

Whereas, it is essential for both government and the private sector to be able to plan in these inflationary times for such expenditures with a reasonable degree of certainty as to both time and amount; and

Whereas, both the government and the private sector should, in the development of environmental compliance programs, be encouraged to carefully weigh and balance the impact of various alternatives on energy conservation, the economy and the environment; and

Whereas, this reasonable degree of certainty does not exist today due to many factors including court decisions, changing regulations, and advancing technology, thereby causing the expenditure of unproductive inflationary funds without regard to the cost of the benefits to be achieved nor to the precious energy consumed; and

Whereas, unreasonable uncertainties now and will in the future curtail expansion resulting in shortages of goods, services and employment to the detriment of the world economy; and

Whereas, provision is presently included in the Federal Water Pollution Control Act Amendments of 1972 to provide a reasonable basis for financial planning for waste water management thereby encouraging the cooperation of the government and the private sector;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly of North Carolina hereby memorializes the Congress of the United States to amend The Clean Air Act by adding new sections as follows:

"Sec. 120. Notwithstanding any other provision of this act, any existing stationary source which has implemented or which is implementing an approved control program under a State implementation plan upon the date of enactment of The Clean Air Act Amendments of 1975 shall not be subject to any more stringent standards than those contained in such control program during a 10-year period beginning on the date of completion of such control program or during the period of depreciation or amortization of such facility for the purposes of G.S. 167 or G.S. 169, or both, of the Internal Revenue Code of 1954, whichever period ends first.

Sec. 121. Notwithstanding any other provisions of this act, any new stationary source the construction of which was commenced before or after the date of enactment of The Clean Air Act Amendments of 1975 and which new source is so constructed as to meet all applicable standards of performance for new stationary sources shall not be subject to any more stringent standard of performance or other standard during a 10-year period beginning on the date of completion of such construction or during the period of depreciation or amortization of such facility for the purposes of G.S. 167 or G.S. 169, or both, of the Internal Revenue Code of 1954, whichever period ends first."

Sec. 2. That the Clerk of the House of Representatives is directed to send copies of this resolution to the Speaker of the United States House of Representatives, the President of the United States Senate and the members of the delegation to the Congress of the United States of this State in order that they may be apprised of the sense of the North Carolina General Assembly.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1975.

H. R. 1030 **RESOLUTION 94**

A JOINT RESOLUTION CALLING UPON THE NORTH CAROLINA DEPARTMENT OF HUMAN RESOURCES TO PROVIDE EASIER ACCESS TO FOOD STAMP APPLICATIONS.

Whereas, the cost of living is continually rising; and

Whereas, the low-income citizens of North Carolina are finding it increasingly difficult to purchase enough food upon which to subsist; and

Whereas, the Food Stamp Program in North Carolina has been of invaluable assistance in alleviating some of the problems experienced by these low-income citizens in providing sufficient food to sustain themselves and their families; and

Whereas, many North Carolina citizens who qualify for food stamps are not currently receiving them; and

Whereas, the North Carolina General Assembly is committed to providing food stamps to all North Carolina citizens who qualify; and

Whereas, the low-income citizens of North Carolina would more fully participate in the Food Stamp Program if easier access to applications was provided; and

Whereas, the placing of applications for the Food Stamp Program in all post offices and in as many places of business as feasible would provide easier access to said applications;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly of North Carolina goes on record as urging the Secretary of the North Carolina Department of Human Resources to provide easier access to the food stamp applications by placing the application forms in all post offices and in as many places of business as the secretary deems appropriate.

Sec. 2. A copy, duly certified by the Secretary of State, shall be sent to the Secretary of the North Carolina Department of Human Resources.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1975.

H. R. 1031 **RESOLUTION 95**

A JOINT RESOLUTION CALLING UPON THE UNITED STATES DEPARTMENT OF AGRICULTURE AND THE UNITED STATES POSTAL SERVICE TO INCREASE HOURS OF DISTRIBUTION OF FOOD STAMPS.

Whereas, the cost of living is continually rising; and

Whereas, the low-income citizens of North Carolina are finding it increasingly difficult to purchase enough food upon which to subsist; and

Whereas, the Food Stamp Program in North Carolina has been of invaluable assistance in alleviating some of the problems experienced by these low-income citizens in providing sufficient food to sustain themselves and their families; and

Whereas, the United States Department of Agriculture has contracted with the United States Postal Service for the distribution of the food stamps; and

Whereas, the contract between the United States Department of Agriculture and the United States Postal Service provides for the distribution of food stamps only between the hours of 10:00 a.m. and 3:00 p.m., Monday through Friday; and

Whereas, the United States Postal Service offices are normally open from 8:30 a.m. to 5:00 p.m., Monday through Friday; and

Whereas, the North Carolina Legislature is committed to the proposition of providing food stamps for all North Carolina citizens who qualify; and

Whereas, qualified North Carolina citizens may not be able to obtain food stamps during the given hours;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The North Carolina General Assembly goes on record by calling upon the United States Department of Agriculture and the United States Postal Service to take all steps necessary to increase the hours of distribution of food stamps to include the regular business day of the Postal Service.

Sec. 2. A copy duly certified by the Secretary of State shall be sent to the Director of the United States Postal Service, to the Honorable Earl Butz, Secretary, United States Department of Agriculture, to each North Carolina Legislator in the United States Congress, to the Secretary of the Department of Human Resources, and to the Regional Postmaster General, Southern Region, Memphis, Tennessee.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1975.

H. R. 1161 RESOLUTION 96

A JOINT RESOLUTION COMMEMORATING THE BICENTENARY ANNIVERSARY OF THE CUMBERLAND COUNTY ASSOCIATION, SIGNERS OF THE LIBERTY POINT RESOLVES, OF JUNE 20, 1775.

Whereas, the economic, social, and political life of Cumberland County, North Carolina, was dominated in 1775 by families who were loyal to the Crown of Great Britain; and

Whereas, the judicial, military, and administrative offices of Cumberland County were largely controlled in 1775 by men of power and influence whose interests were inimical to American freedom; and

Whereas, opposition to the arbitrary oppressions of Great Britain could be voiced only at a real and imminent danger of loss of liberty and property; and

Whereas, on June 20, 1775, 39 citizens of Cumberland County, at the risk of real and imminent danger associated together at a place now called Liberty Point and pledged their lives and fortunes to secure the freedom and safety of America from the arbitrary oppressions of Great Britain; and

Whereas, the determined stand taken by the 39 signers of the Cumberland County Association at Liberty Point was instrumental in uniting American patriots in the Cape Fear River Valley; and

Whereas, American patriots in the Cape Fear River Valley successfully overcame by force of arms on February 27, 1776, at Moore's Creek Bridge, those who were loyal to the British Crown and who were inimical to American freedom; and

Whereas, such examples led ultimately to the winning of American independence and to the establishment of the oldest surviving constitutional republic in the world; and

Whereas, the Cumberland County Association of June 20, 1775, is popularly known as the Liberty Point Resolves; and

Whereas, June 20, 1975, is the bicentenary anniversary of the Cumberland County Association, or Liberty Point Resolves; and

Whereas, the State of North Carolina stands continually in debt to her Revolutionary War patriots;

Now, therefore, be it resolved by the House of Respresentatives, the Senate concurring:

Section 1. That the General Assembly of North Carolina acknowledge its very real sense of obligation to the 39 signers of the Cumberland County Association, or Liberty Point Resolves, of June 20, 1775.

Sec. 2. That the bicentenary anniversary of the Cumberland County Association, June 22, 1975, be declared a statewide day of celebration to be known under the style and title of "Liberty Point Resolves Day".

Sec. 3. That the text of this resolution shall be gazetted in the newspapers, "The Fayetteville Observer" and "The Fayetteville Times", published in the City of Fayetteville, North Carolina.

Sec. 4. That a copy of this resolution shall be sent by the Secretary of State to the commissioners of the County of Cumberland, to the Mayor of the City of Fayetteville, and to the Chairman of the Cumberland County Bicentennial Committee.

Sec. 5. This resolution shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1975.

H. R. 1243 RESOLUTION 97

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JACK CONRAD RENIGAR.

Whereas, the General Assembly of North Carolina has been saddened by the death of Jack Conrad Renigar of Forsyth County and is grateful for his contributions to the safety and welfare of the State; and

Whereas, he was born June 22, 1931, in Forsyth County to Harry E. Renigar and Lucille Ferguson Renigar and married Peggy Blalock Renigar by whom he had three children, Pam Renigar, Mike Renigar, and Scott Renigar; and

Whereas, Jack Conrad Renigar contributed to the business life of his community through 24 years of service as an installer for Southern Bell Telephone and Telegraph Company and to the religious life of his area as a member of Christ Moravian Church; and

Whereas, he made a most significant contribution to good law enforcement in Forsyth County by organizing under Sheriff Manly Lancaster in February 1971 the Volunteer Reserves of the Forsyth County Sheriff's Department and

had continued since then to serve as Captain in command of the Volunteer Reserves; and

Whereas, on the night of May 30, 1975, in line of duty as a Deputy Sheriff of Forsyth County, with great courage, and in the best traditions of law enforcement Jack Conrad Renigar gave pursuit to an automobile in which he knew there was an armed man suspected of killing another officer and following a chase both by car and on foot was shot and killed; and

Whereas, the General Assembly of North Carolina wishes to make record of its appreciation of his life and service and its sorrow at his death;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly of North Carolina recognizes the contributions and mourns the passing of Jack Conrad Renigar, true son of North Carolina, and extends its sympathy to the surviving members of his family.

Sec. 2. That a copy of this resolution shall be duly certified by the Secretary of State and by him transmitted to the family of Jack Conrad Renigar.

Sec. 3. That this resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1975.

H. R. 1244 RESOLUTION 98

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF WAYNE HAROLD GAITHER.

Whereas, the General Assembly of North Carolina has been saddened by the death of Wayne Harold Gaither of Davie County and is grateful for his contributions to the safety and welfare of the State; and

Whereas, he was born January 9, 1946, in Davie County to John Pinkney Gaither and Grace Alvea Gaither and whereas he was married to Mary Ratledge Gaither; and

Whereas, Wayne Harold Gaither served honorably in the Armed Forces of the United States of America in Vietnam and served the religious life of his community through his membership in New Union Methodist Church; and

Whereas, he joined the Police Department of Mocksville and thereafter served as a law enforcement officer in the Town of Mocksville and later transferred to the Sheriff's Department of Davie County and continued his education, studying police science courses, at Davidson County Community College, Forsyth Technical Institute and Biscayne College in Miami, Florida; and

Whereas, he was promoted by Sheriff R. O. Kiger to the rank of detective specializing in illegal drug cases; and

Whereas, on the night of May 30, 1975, Wayne Harold Gaither in line of duty as an officer of the law stopped an automobile in which there was a man whom he knew to be dangerous and, when he approached the man, was shot and killed; and

Whereas, the General Assembly of North Carolina wishes to make record of its appreciation of his life and service and its sorrow at his death;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly of North Carolina recognizes the contributions and mourns the passing of Wayne Harold Gaither, true son of North Carolina, and extends its sympathy to the surviving members of his family.

Sec. 2. That a copy of this resolution shall be duly certified by the Secretary of State and by him transmitted to the family of Wayne Harold Gaither.

Sec. 3. That this resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1975.

H. R. 1246 RESOLUTION 99

A JOINT RESOLUTION HONORING ANNE ELLEN ATKINSON, AGE 12, AND GRAHAM HUGH ATKINSON, AGE 10.

Whereas, Sunday night, February 23, 1975, was a night of tragedy, terror and heroism in the community of Siloam, Surry County, North Carolina; and

Whereas, the Siloam Bridge spanning Yadkin River and connecting Yadkin and Surry Counties fell into the river carrying one car with it as it fell; and

Whereas, the river and bridge were shrouded with dense fog and as moments passed, one by one, six other vehicles ascended ramps and entered the void, two more from Yadkin County and four from Surry; and

Whereas, the wife of Mr. Thomas Needham and his daughter perished in the waters of the river on the Yadkin County line; and

Whereas, Mr. Hugh Atkinson and his wife, Ola, expired, while holding hands, it is believed, from the crash of another vehicle which had followed them into the chasm; and

Whereas, from the fallen vehicle of Edwin Atkinson, Graham Hugh Atkinson and Anne Ellen Atkinson, at their father's command, rendered timely and critical assistance, preventing loss of life or injury to others and aided in rescue efforts; and

Whereas, their prayer that no car fall upon them, answered as they watched in terror from the bottom of their overturned car the last vehicle crash from the ramp onto their grandfather's car, Anne Ellen Atkinson hastened to the entrance of the ramp to warn other cars and to summon help from emergency and rescue services and Graham Hugh Atkinson remained at water's edge to comfort his mother and to assist his father in rescue efforts until professional services arrived; and

Whereas, the rising waters of the river would have claimed the life of Joyce Atkinson Feezor had she not been removed, while unconscious, by Edwin Atkinson who had already ascertained his parents were dead;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly of the great State of North Carolina does at this time wish to pay tribute to two brave North Carolinians, Anne Ellen Atkinson and Graham Hugh Atkinson, and their family for their brave deeds on this night of tragedy.

Sec. 2. This resolution shall become a part of the records of the 1975 Session of the General Assembly of North Carolina and copies shall be duly certified by the Secretary of State and transcribed to these individuals.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1975.

S. R. 549 RESOLUTION 100

A JOINT RESOLUTION TO ESTABLISH A UTILITY REVIEW COMMITTEE.

Whereas, the ultimate authority to regulate business and industry in North Carolina is vested in the General Assembly; and

Whereas, the people of North Carolina look to the General Assembly to exercise that authority wisely and for the greatest good of the greatest number; and

Whereas, in this period of rapid change in the economic climate, it is difficult for the members of the General Assembly to exercise responsible judgment unless adequately informed in such complex areas as the regulation of public utilities; and

Whereas, the establishment of utility rates and the maintenance of an equitable balance between the legitimate interest of the companies and the necessary protection of the consumers are ongoing problems which will face successive sessions of the General Assembly:

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. Notwithstanding the provisions of the Executive Budget Act, there is hereby established a permanent Utility Review Committee to evaluate the actions of the State Utilities Commission and analyze the operations of the several utility companies doing business in North Carolina and make periodic reports and recommendations to the General Assembly.

Sec. 2. The Utility Review Committee shall consist of six sitting members of the General Assembly, three to be named by the Speaker of the House and three by the Lieutenant Governor. The chairman or co-chairman shall be elected by the committee from among its members.

Sec. 3. The Utility Review Committee shall continue in existence for five years, beginning July 1, 1975; and any vacancy occurring during that period shall be filled through appointment by the presiding officer of the appropriate house.

Sec. 4. The Utility Review Committee shall have authority to employ a professional staff, giving first consideration to employees of the Legislative Services Commission who may be able to serve on an interim basis without additional pay except as is necessary to cover travel, subsistence and such other expenses as may be incurred.

Sec. 5. The Utility Review Committee shall be independent of all offices, agencies, boards, commissions, divisions and other instrumentalities of

State government except the General Assembly. It shall not be subject to the Executive Budget Act or the State Personnel Act.

Sec. 6. The Utility Review Committee shall have no regulatory authority, but may exercise the following powers and duties:

(1) To review the interim and final orders of the State Utility Commission to the end that members of the General Assembly may better judge whether these actions serve the best interest of the citizens of North Carolina, individual and corporate.

(2) To review the programs, projects, sources and amounts of income, performance and accomplishments of utility companies doing business in North Carolina to determine whether expenditures plowed back into the rate structure were in all cases appropriate and necessary.

(3) To inquire into the role of the State Utilities Commission and the several utility companies in the development of alternate sources of energy.

(4) To inquire into the individual and collective effort of the utility companies to encourage the conservation of energy and thus reduce requirements for additional generating facilities.

(5) To submit evaluations to the General Assembly, from time to time, of the performance of the State Utilities Commission and the various utilities operating in the State. A proposed draft of such evaluation shall be submitted to the utilities commission and the affected public utilities prior to submission to the General Assembly and utilities commission and affected utilities shall be given an opportunity to be heard before the Utility Review Committee before the evaluation is finally completed and submitted to the General Assembly.

Sec. 7. The Utility Review Committee, or its designated agents, shall at all times with proper notice, have access to such books, records or other documents relating to expenditures, revenues, operations and organizations, public and private, as may be necessary to the performance of its mission.

Sec. 8. In the discharge of any duty imposed by law, the Utility Review Committee, acting through its chairman or co-chairman, may subpoena witnesses, administer oaths and take testimony or cause depositions of witnesses to be taken where appropriate.

Sec. 9. The Utility Review Committee shall be a continuing committee of the General Assembly and shall be assigned suitable office space and equipment. To support its operations during the next biennium, twenty-five thousand dollars ($25,000) is hereby appropriated from the General Fund.

Sec. 10. This resolution shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1975.

S. R. 575 **RESOLUTION 101**

A JOINT RESOLUTION TO CREATE A SMALL BUSINESS STUDY COMMISSION.

Whereas, the most important element of the American economic system of private enterprise is free and vigorous competition and only through the existence of this competition can free entry into business and opportunities for personal initiative and individual achievement be assured; and

Whereas, the preservation and expansion of such free and vigorous competition are essential for our economic well-being and in order to insure such competition, small business concerns must be encouraged and developed; and

Whereas, it should be the declared policy of the State to aid, counsel, and assist, in every practical manner, the interests of small business concerns in order to preserve free competitive enterprise, to insure that a fair proportion of the total purchases and contracts or subcontracts for property, commodities, and services for the State be placed with small businesses; tf Now, therefore, be it resolved by the the Senate, the House of Representatives concurring:

Section 1. For the purpose of this resolution, the following definitions shall apply:

(1) "Small business" shall be deemed to be a business which is independently owned and operated. In addition, such business must have either fewer than 100 employees or less than five million dollars ($5,000,000) in gross receipts per year.

(2) "Division" means the Division of Purchasing and Contract of the Department of Administration.

(3) "Department" means the Department of Administration.

Sec. 2. There is hereby created a Small Business Study Commission in the Department of Administration to be composed of representatives of designated small business enterprises to be named as follows: five by the Governor, two each by the President of the Senate and the Speaker of the House of Representatives, and the Governor shall designate from among the members a chairman of the council. The members of the council shall serve without compensation. The council shall meet at the call of the chairman in consultation with the director of the division who shall also serve without additional compensation as executive director of the council.

Sec. 3. The study commission created herein is authorized and empowered to:

(1) Make a complete inventory of all productive facilities of small business concerns in the State.

(2) Coordinate and ascertain the means by which the productive capacity of small business concerns can be most effectively utilized.

(3) Obtain information as to the methods and practices of prime contractors in letting subcontracts and to recommend action to encourage the letting of subcontracts by prime contractors to small business concerns at prices and on conditions and terms which are fair and equitable.

(4) Determine the concerns, firms, persons, corporations, partnerships, cooperatives, or other business enterprises which are to be designated "small business" concerns for the purposes of effectuating the study provisions of this resolution. To carry out the purposes of this resolution, the department shall

designate individual concerns as "small business concerns" in accordance with the provisions of this resolution. Any such designation shall be subject to revocation when the concern covered thereby ceases to be a "small business".

(5) Obtain from any State department or agency engaged in procurement or in the financing of procurement such reports and information concerning the letting of contracts and subcontracts, purchases, or procurement of articles, commodities, materials, supplies, or services as it may deem pertinent in carrying out its functions under this resolution.

(6) Make studies of recommendations to State agencies and the Legislature which would insure a fair proportion of the total purchases and contracts for articles, commodities, supplies, and services for the State is placed with small business enterprises.

(7) Make recommendations to promote the mobilization of activities and resources of State and local governments, businesses and trade associations, universities, foundations, professional organizations, and volunteer and other groups toward the growth of small business enterprises, and facilitate the coordination of the efforts of these groups with those of federal departments and agencies.

Sec. 4. Each department or other agency of the State shall cooperate with the department in carrying out the purposes of this act and shall, when so requested by the department, submit such reports and information as may be necessary or helpful.

Sec. 5. This resolution shall be liberally constructed to carry out its purposes and objectives of assisting small businesses to successfully enter and remain in the economic mainstream and to otherwise achieve the statement of legislative policy contained herein.

Sec. 6. The commission shall make a written report to the Governor, the President of the Senate, the Speaker of the House of Representatives and the chairmen of the appropriate Senate and House committees prior to the opening day of the General Assembly, such report to be made no later than February 1 of each year. The report shall advise the Governor, the Speaker, the President and the designated chairmen concerning the recommendations of this act and shall contain such recommendations for implementation as the department and the study commission herein provided for deem proper.

Sec. 7. This resolution shall take effect July 1, 1975, and shall remain in force until February 1, 1977.

In the General Assembly read three times and ratified, this the 23rd day of June, 1975.

S. R. 576 RESOLUTION 102

A JOINT RESOLUTION DIRECTING THE LEGISLATIVE RESEARCH COMMISSION TO STUDY INTERGOVERNMENTAL RELATIONS.

Whereas, the complexity of modern society and the changing role of the federal and State governments necessitate broader responsibilities for local governments; and

Whereas, these broader responsibilities for local governments call for a reassessment of their respective roles and their relationships with each other and State and federal governments; and

Whereas, the present capacities of local government will be severely strained if their resources and operational frameworks are not more quickly modernized and expanded; and

Whereas, lead regional organizations have been in operation in North Carolina for five years and there is a need to thoroughly review the local experience of these organizations; and

Whereas, it is well recognized that continuing attention should be given to basic aspects of local government by an appropriate body if the system of State and local government is to remain vital and effective; and

Whereas, the Local Government Study Commission, established by resolution in 1967 and continued by resolution in 1969 and 1971, has expired and is no longer functioning;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The Legislative Research Commission is directed to produce a study on Intergovernmental Relations, and:

(1) To examine the current distribution of jurisdictional responsibilities and service functions among governments in North Carolina relative to the increased needs of its citizens and to recommend improvements in the distribution of such responsibilities and service functions among governments;

(2) To review boundaries and powers of regional councils of government and to review COG legislation;

(3) To examine the system of and flow of intergovernmental funds with respect to their impact on priority public services at the local and State levels, and to recommend improvements in policy formulation, administration, distribution, and use of such funds;

(4) To examine the experience with home rule legislation and make recommendations for improvements;

(5) To review the use and sources of science and technology which are needed by State and local governments for modern management of government;

(6) To identify and examine emerging public policy problems that involve intergovernmental responsibilities and that call for intergovernmental solutions, and to make recommendations with respect to such solutions;

Sec. 2. The Cochairmen of the Legislative Research Commission are authorized to appoint additional members of the General Assembly to study committees to assist the regular members of the Research Commission in conducting this study, and they are authorized to appoint members of the public to advisory subcommittees. The President Pro Tempore of the Senate shall consult with the President of the Senate when he considers these additional appointments.

Sec. 3. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 23rd day of June, 1975.

H. R. 1074 **RESOLUTION 103**

A JOINT RESOLUTION CREATING A COMMITTEE FOR THE STUDY OF THE PROPERTY TAX SYSTEM IN NORTH CAROLINA.

Whereas, the North Carolina General Assembly has demonstrated its concern over the problems of local governments with the administration and collection of ad valorem taxes, having conducted special interim studies in several previous sessions of the General Assembly which resulted in improvements in the property tax system; and

Whereas, problems remain with the efficient administration and collection of ad valorem taxes, particularly with regard to information on land titles, ownership of land, records of land transfers, collection of taxes on personal property, administration of exemptions for the elderly and disabled; and

Whereas, the Joint Legislative Committee on the Tax Structure of the Local Units of Government created by the 1973 General Assembly, Second Session, 1974 (House Joint Resolution 2066, ratified Resolution 185), has recommended the continued study of the property tax and the continuation of the study of the feasibility of computer-assisted mass appraisal; and

Whereas, G.S. 105-286 requires revaluation of the real property in each county at least once every eight years for ad valorem tax purposes; and

Whereas, in recent years it has become increasingly difficult to obtain the services of a reputable appraisal company, and once hired the appraisal companies have frequently been unable to retain enough qualified appraisers to fulfill their contractual commitments; and

Whereas, utilization of private appraisal firms is extremely expensive and time-consuming even when no unusual difficulties arise in the course of the revaluation; and

Whereas, octennial revaluation results in many inequities among taxpayers which can be cured only through more frequent adjustment of appraised values, an approach which has been required by judicial determination in some other jurisdictions; and

Whereas, more frequent revaluations would be prohibitively expensive if conducted by private appraisal companies, and the expanded load might be unmanageable at any cost by the decreasing number of financially stable companies; and

Whereas, computer-assisted mass appraisal techniques are currently being employed in other states which enable those jurisdictions to conduct revaluations as frequently as desired for a minimal cost per parcel after the initial cost of implementation; and

Whereas, a pilot project conducted in Wake County has demonstrated the feasibility of computer-assisted mass appraisal in North Carolina; and

Whereas, Mecklenburg County has employed computer assistance to conduct a revaluation four years before required by law at approximately one-tenth (1/10) the cost of a private company; and

Whereas, ad valorem property tax is primarily a function of the local units of government, and the long-term benefits to be derived from a computerized system of appraisal will be realized by the local units; and

Whereas, the continued study and improvement of the property tax has consistently been undertaken by the General Assembly of North Carolina;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. There is created the Committee for the Study of the Property Tax to be composed of 14 members, seven to be appointed by the President of the Senate, and seven to be appointed by the Speaker of the House. All appointments shall be made in time for the committee to begin its work by September 1, 1975.

Sec. 2. It shall be the duty of the committee to make a comprehensive study of the efficiency, effectiveness, and fairness of the administration of the property tax in North Carolina. The committee in its study shall review the system of land records maintained by cities and counties to ascertain the need for modernization of such systems to utilize changing technology. The committee shall review current procedures for listing and collecting taxes on personal property and real property with regard to increasing the efficiency and equity of such procedures. The committee shall examine the octennial revaluation system and evaluate the feasibility of establishing a computer-assisted revaluation program. In its work, the committee shall consult with tax officials in State and local government and may employ such experts as are necessary.

Sec. 3. Upon its appointment, the committee shall organize by electing from its membership a chairman and a vice-chairman.

Sec. 4. The expenses of the committee shall be paid from funds collected by the Department of Revenue under Article 7, Chapter 105 of the General Statutes of North Carolina. The funds so expended shall be deducted as in G.S. 105-213(a) for the costs of administering the intangibles tax.

Sec. 4.1. The members of the Committee shall be reimbursed and compensated as follows:

(a) Legislator members at the rates set out in G.S. 120-3.1;

(b) Public members as set out in G.S. 138-5; and

(c) State employee or official members as set out in G.S. 138-6.

Sec. 5. The committee shall report its findings and recommendations to the 1977 General Assembly by January 15, 1977.

Sec. 6. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 23rd day of June, 1975.

H. R. 1158 RESOLUTION 104

A JOINT RESOLUTION HONORING THE MEMORY OF A DISTINGUISHED SERVANT OF THE PEOPLE OF NORTH CAROLINA, DR. AMOS NEILL JOHNSON.

Whereas, Dr. Amos Neill Johnson was born in Garland, North Carolina, on June 5, 1908, and died on April 23, 1975; and

Whereas, Dr. Amos Neill Johnson was an outstanding member of the medical profession from his graduation from the University of Pennsylvania's School of Medicine in 1933 until his death on April 23, 1975; and

Whereas, Dr. Amos Neill Johnson was president of the American Board of Family Practice for 1972-1973 and treasurer of that esteemed organization from 1973 until his death; and

Whereas, Dr. Amos Neill Johnson was the American Academy of Family Physicians' representative to the United States Congress from 1967 to 1975; and

Whereas, in addition to these achievements, Dr. Amos Neill Johnson served on the Board of Trustees of the University of North Carolina since 1965, served as president of the North Carolina Medical Society for 1960-1961 and served as president of the Board of Medical Examiners for 1955, served as a member of the Sampson County Board of Education 1952-1960, was recipient of North Carolina "Citizen of the Year" Award in 1966, and served on numerous State boards as an appointee of the Governor; and

Whereas, Dr. Amos Neill Johnson is survived by his widow, Mary Porter Allan Johnson, two children and three grandchildren;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That in the death of Dr. Amos Neill Johnson, the State of North Carolina has sustained the loss of an outstanding citizen and physician, and that a copy of this resolution be spread upon the minutes of both the Senate and the House of Representatives, and that a copy of this resolution be duly certified by the Secretary of State and transmitted by him to the family of Dr. Amos Neill Johnson.

Sec. 2. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. R. 1219 RESOLUTION 105

A JOINT RESOLUTION HONORING THE LIFE, SERVICE AND MEMORY OF PLEAS MONROE SAWYER.

Whereas, Pleas Monroe Sawyer was born on September 12, 1884, at Robbinsville, Graham County, North Carolina, of English, Scottish and Cherokee Indian extraction and died on October 26, 1973; and

Whereas, Pleas Monroe Sawyer attended Mars Hill College and Draughon's Business College; and

Whereas, Pleas Monroe Sawyer became a lawyer, certified public accountant and law tax consultant in Greensboro, North Carolina; and

Whereas, Pleas Monroe Sawyer was a devoted family man and was a member of the Masonic Order, Shrine, Oriental Shrine Club and Odd Fellows Lodge; and

Whereas, during the course of his long and distinguished career, Pleas Monroe Sawyer was a public servant having served in the General Assembly in 1917 and as Postmaster at Tapoco, North Carolina; and

Whereas, a dear friend, Mrs. Margaret S. Mahaffey, after standing in the Old Capitol Building where Pleas Monroe Sawyer sat as a legislator, composed the following verses in his memory:

"I stood in the Hollowed Halls of the Legislature,
In the Old Capitol Building,
A Feeling of Austerity Swept Over My Being,

I Thought of the Wisdom of the Men Who Sat Here,
Were They Not Men of Mortality Like Myself,
With Their Hopes and Dreams, Their Fears and
Flusterations, Their Disappointments and Successes?
Could These Men, Who Now Belong to the Ages, but
Speak to Me Today.
Oh, Yes, I Hear Them in Chorus, Saying,
'Light One Candle My Child, There is Still
Much Darkness in the Land.'
Lovingly,
A Friend"

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly recognize and express its appreciation for the public service rendered for the betterment of North Carolina by Pleas Monroe Sawyer.

Sec. 2. That a copy of this resolution shall be certified by the Secretary of State and transmitted to the family of Pleas Monroe Sawyer.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. R. 1249 RESOLUTION 106

A JOINT RESOLUTION HONORING THE LIFE, SERVICE AND MEMORY OF FRANKLIN E. CORRELL.

Whereas, Franklin E. Correll, as an internationally-recognized scientist and teacher, through dedication, vision and perseverance, made immeasurable contributions to the advancement of the fruit-growing industry in his native North Carolina; and

Whereas, this State has lost a man whose brilliant and inquiring mind unraveled the mysteries of nature for the betterment of his fellowman; and

Whereas, Professor Franklin E. Correll was an outstanding university professor who had a love and concern for students and received their highest respect, admiration and affection; and

Whereas, Professor Correll served with distinction on the faculty of North Carolina State University for a quarter of a century, being elected to the Academy of Outstanding Teachers, and through his diligent research as a scientist with the Agricultural Experiment Station helped to develop ten new varieties of peaches and several new varieties of blueberries, strawberries and apples; and

Whereas, his research with peaches resulted in producing varieties with excellent flavor, non-browning flesh and desirable shipping qualities, thus contributing immeasurably to the advancement of the peach industry in North Carolina; and

Whereas, the North Carolina Apple Growers Association and the North Carolina Peach Growers Society bestowed Professor Correll with honorary life memberships because of his contributions to these industries; and

Whereas, Franklin E. Correll was held in the highest esteem, respect, and affection by fellow scientists, colleagues and friends who have established the

Franklin E. Correll Memorial Fund in his honor and memory at North Carolina State University; and

Whereas, Franklin E. Correll, who was born March 27, 1913, in Woodleaf, Rowan County, North Carolina, and who earned his B.S. degree in 1935 and his M.S. degree in 1950 from North Carolina State University, distinguished himself in service to his State and nation as a First Lieutenant during World War II under the leadership of General George S. Patton, receiving the Purple Heart, the Oak Leaf Cluster and five combat ribbons; and

Whereas, Franklin E. Correll and his wife, Opal T. Correll, having no children of their own, were greatly loved by the hundreds of "adopted" students at NCSU who enjoyed the benefits of his tutelage and warm friendship; and

Whereas, Franklin E. Correll is survived by five of the nine brothers and sisters in his family, namely Talton E. Correll and Russell Lee Correll of Woodleaf, Spence M. Correll of Madison Heights, Virginia, Juanita Hendricks of Raleigh and Lois Mae Coon of Conover;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly honors the memory of Franklin E. Correll and expresses the deep gratitude and appreciation of this State and its citizens for his life and service to North Carolina.

Sec. 2. That this resolution shall become a part of the public record of this Session of the General Assembly and a copy shall be certified by the Secretary of State and transmitted to the family of Franklin E. Correll.

Sec. 3. That this resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. R. 1254 RESOLUTION 107

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF GEORGE ROMULUS ROSS, FORMER MEMBER OF THE GENERAL ASSEMBLY FROM MOORE COUNTY.

Whereas, George Romulus Ross, a former member of the North Carolina General Assembly and a distinguished public servant in the fields of agriculture, conservation, industrial development and historic preservation, died on May 11, 1974; and

Whereas, George Romulus Ross began his life on May 22, 1888, in Randolph County, the son of Romulus Rudolph and Rebecca Ellen McCulloch Ross, and was a graduate of A. & M. College (now North Carolina State University) in 1911, and became a resident of Moore County as a manager of farms and orchards, and was a Representative in the General Assembly from Moore County in 1921, 1922, 1923, 1924, and was a director of the Division of Markets of the North Carolina Department of Agriculture, Director of State-owned farms, Administrator of Rural Rehabilitation and Loan Administration with the United States Department of Agriculture, Marketing Specialist with the North Carolina Department of Agriculture, and Director of the Department of Conservation and Development, from which he retired in 1953 to return to his home in Jackson Springs, North Carolina; and

Whereas, George Romulus Ross continued to exert his tremendous influence for the public good by serving on the Moore County Planning Board,

the Tryon Palace Commission, the Moore County Historical Association, and the North Carolina Literary and Historical Association, and in other capacities encouraging the restoration and preservation of various historic sites in North Carolina, advancing ideas and assistance for the development of conservation programs, industrial development, travel and tourist promotion; and

Whereas, in December, 1969, he was honored as the recipient of the Sandhills Kiwanis Builders Cup for "outstanding service to the community, without thought or hope of personal gain" and cited "for his contributions to agriculture and industry, his comprehensive knowledge of local history and natural resources, with promotional and organizational abilities which stood his State and county in good stead, and his deep concern for the welfare of others which motivated his entire life";

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly of North Carolina expresses its deep appreciation for the life and accomplishments of George Romulus Ross and for the great service he rendered to the nation, the State of North Carolina, and the County of Moore.

Sec. 2. That the General Assembly of North Carolina extends its deepest sympathy to the family of George Romulus Ross for the loss of its distinguished member.

Sec. 3. That this resolution shall become a part of the public records of this session of the General Assembly and copies of this resolution shall be certified by the Secretary of State and transmitted to his sister, Sarah Esther Ross of Asheboro, and his sons, William Goley Ross of Raleigh and George Romulus Ross, Jr., of Maryland.

Sec. 4. That this resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. R. 1269 RESOLUTION 108

A JOINT RESOLUTION HONORING THE LIFE, SERVICE AND MEMORY OF MRS. SALLIE BAKER EVERETT.

Whereas, Sallie Baker Everett, a leader among the women of North Carolina in political, social and civic affairs, died on April 29, 1975; and

Whereas, Sallie Baker Everett was the wife of B.B. Everett, a former member of the North Carolina House of Representatives from Halifax County, and during this time, Sallie Baker Everett was the President of the Sir Walter Cabinet and a long time active member of that organization; and

Whereas, Sallie Baker Everett was a distinguished leader in various organizations of national, State and local significance in that she was a former Director of the Farm Bureau, organizer and leader of the Ladies Auxiliary to the Farm Bureau, a former Director of the Agricultural Foundation of North Carolina, a charter member of the Scotland Neck Woman's Club, and a charter member of the Clarksville Literary Society organized in 1917 and federated in 1919; and

Whereas, Sallie Baker Everett was extremely active in the political, cultural, civic and religious life of her community and State, having received such honors as the Progressive Farmer's Woman of the Year, the North

Carolina Farm Bureau's Distinguished Award; was Vice Chairman of the North Carolina Democratic Executive Committee from 1942 - 1948, and was State Representative to the Democratic National Committee from 1952 - 1960, and was National Democratic Committeewoman under the administration of four different North Carolina Governors, and was appointed by President Franklin D. Roosevelt to the White House National Committee on Education; and

Whereas, Sallie Baker Everett was a devoted church worker, a Sunday School teacher for over 50 years, and a communicant of Trinity Episcopal Church in Scotland Neck; and

Whereas, Sallie Baker Everett is survived by two daughters, Mrs. Maxilla E. Evans of Dallas, Texas, and Mrs. Sue E. Graves of Washington, North Carolina, and two sons, Fate B. Everett and Ben B. Everett, Jr., of Palmyra, North Carolina, and also 16 grandchildren and six great-grandchildren;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly recognizes that in the death of Sallie Baker Everett, the State of North Carolina, the County of Halifax, and the Town of Scotland Neck have lost an able and gracious leader and the General Assembly does hereby honor the memory of Sallie Baker Everett and expresses the deep gratitude and appreciation of this State and its citizens for her life and service to the people of North Carolina.

Sec. 2. That this resolution shall become a part of the public record of this session of the General Assembly and a copy shall be certified by the Secretary of State and transmitted to the family of Sallie Baker Everett.

Sec. 3. That this resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

S. R. 845 RESOLUTION 109

A JOINT RESOLUTION CREATING A SPECIAL COMMITTEE TO DETERMINE THE NECESSITY AND FEASIBILITY OF CONDUCTING A STUDY ON WORK EFFICIENCY IN STATE GOVERNMENT AGENCIES.

Whereas, the present state of the economy necessitates a very careful consideration of the State budget and government spending; and

Whereas, private industries periodically conduct time and motion studies and job analyses in order to determine and promote the efficiency of their operations and to eliminate excessive waste of money and duplication of effort of personnel; and

Whereas, it is in the best interest of the taxpayers of the State that their government does not allow excessive waste of public dollars and duplication of effort in its every day operation; and

Whereas, the General Assembly needs to analyze and establish various cost-cutting programs;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The commission established by the enactment of either Senate Bill 773 or House Bill 1012 from the 1975 General Assembly shall

conduct such investigation as may be necessary to determine the necessity and feasibility of conducting a study on work efficiency in State government agencies.

Sec. 2. It shall be the duty of the committee to analyze and determine whether it would be beneficial to the taxpayers of North Carolina and to the operations of State government to engage professional management consultants to make job analyses and time and motion studies and to recommend cost-cutting programs with regard to State government agencies and personnel.

Sec. 3. The executive director of the Office of State Personnel and the heads of all State government agencies shall make themselves and their staffs available to the committee.

Sec. 4. If the commission determines that such a study is necessary and feasible, it shall recommend to the Second Session of the 1975 General Assembly the names of management consultants to conduct the study.

Sec. 5. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. R. 1276 RESOLUTION 110

A JOINT RESOLUTION HONORING R. J. REYNOLDS INDUSTRIES, INC.

Whereas, tobacco each year accounts for a majority of the cash crops grown in North Carolina; and

Whereas, the R. J. Reynolds Tobacco Company, Subsidiary of R. J. Reynolds Industries, Inc., has been a leader in the expansion and growth of the tobacco industry in North Carolina; and

Whereas, 1975 is more than "just another year" for R. J. Reynolds Industries, Inc. It is a year of celebration. The celebration is for a hundred years of progress — from Richard Joshua Reynolds' "little red factory" in what was then known solely as Winston, North Carolina, to the present-day international manufacturing and marketing giant; and

Whereas, under Reynolds' astute management his company grew and prospered. By 1906, it was producing one-seventh of the nation's plug chewing tobacco, and by 1912 the share had grown to one-fourth. The company still makes plug tobacco, and although the market has dwindled, its Days Work has been foremost for many years. In 1907, Reynolds developed Prince Albert smoking tobacco, which is still the largest-selling brand in the country; and

Whereas, Camel was introduced as the company's first major cigarette brand in 1913 and is the most popular cigarette ever produced. Winston cigarettes, introduced in 1954, rank first in sales in the United States today, and Salem, introduced in 1956, is one of the nation's largest-selling menthol brands. Vantage has become the fastest-growing brand among the top 20 cigarette brands since its introduction in 1970; and

Whereas, diversification of Reynolds Tobacco Company began in the 1950's when the company's Archer Aluminum Division started making products for customers other than Reynolds Tobacco. During the 1960's, acquisitions were made of companies in foods, snacks and fruit beverages. Sea-Land Service, Inc., became part of the Reynolds organization in 1969, and arrangements were completed in 1970 for acquisition of American Independent Oil Company; and

Whereas, in June, 1970, the corporate structure was reorganized to provide for more efficient management of the company's increasingly diverse operations and their rapidly expanding international scope. R. J. Reynolds Industries, Inc., became the parent corporation of R. J. Reynolds Tobacco Co., still the nation's largest tobacco products company; Sea-Land Service, Inc., the world's largest containerized shipping company; American Independent Oil Company (Aminoil), an international petroleum products company; RJR Foods, Inc., which has a number of well-known lines of fruit punches and convenience foods (including Hawaiian Punch and Chun King), syrups and molasses, and other food products; and RJR Archer, Inc., a major producer of aluminum sheet and foil, packaging materials, consumer products, and film wrapping materials; and

Whereas, in 1974 the company acquired Macdonald Tobacco Inc., of Canada, further expanding the scope of international tobacco operations which market cigarettes in more than 140 countries; and

Whereas, as 1975 began, the company closed its books on 1974 sales and revenues of more than four billion dollars from tobacco products, containerized shipping, aluminum products, convenience foods, and petroleum;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That by this resolution the General Assembly of North Carolina honors the R. J. Reynolds Tobacco Company and its parent corporation, R. J. Reynolds Industries, Inc., for 100 years of progressive and productive service to our State and nation.

Sec. 2. That a copy of this resolution shall be duly certified by the Secretary of State and shall be transmitted by him to the Board of Directors of R. J. Reynolds Industries, Inc.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

S. R. 932 RESOLUTION 111

A JOINT RESOLUTION HONORING THE NORTH CAROLINA DAUGHTERS OF THE AMERICAN REVOLUTION AND THE NATIONAL SOCIETY OF THE DAUGHTERS OF THE AMERICAN REVOLUTION.

Whereas, the National Society of the Daughters of the American Revolution has conducted a continuing program to promote public knowledge, understanding and appreciation of the Constitution of the United States; and

Whereas, the Daughters of the American Revolution of North Carolina have participated in this continuing program with great industry and dedication with the result that in 1974 the North Carolina Society's Constitution Week Program won the first place National Award; the First Place Exhibit Award; the Best Scrapbook Award; and awards for 100% Chapter Participation, Best Report in the Southeastern Division, and best original spot announcement in the Southeastern Division; and

Whereas, the National Society of the Daughters of the American Revolution presented its Continental Congress Award to the North Carolina Chairman of Constitution Week for the scrapbook which chronicled the efforts and results of the North Carolina effort; and

Whereas, this scrapbook is being considered for inclusion in the permanent exhibit of the Freedoms Foundation at Valley Forge, Pennsylvania; and

Whereas, the National Society and the North Carolina Society are currently engaged in a 1975 program to continue to make the United States Constitution more meaningful to all citizens;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the General Assembly of North Carolina commends the National Society of the Daughters of the American Revolution and the North Carolina Society for their many worthwhile efforts to promote patriotism and love of country in America, and especially for their efforts to make National Constitution Week meaningful.

Sec. 2. That the General Assembly of North Carolina congratulates the North Carolina Society of the Daughters of the American Revolution for their national recognition which crowned their Constitution Week efforts in 1974.

Sec. 3. That the Secretary of State shall transmit a certified copy of this resolution to the President General of the National Society of the Daughters of the American Revolution, to the State Regent of the North Carolina Society of the Daughters of the American Revolution and to the Chairman of Constitution Week of the North Carolina Society.

Sec. 4. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. R. 338 RESOLUTION 112

A JOINT RESOLUTION REQUESTING THE DEPARTMENT OF ADMINISTRATION TO CONDUCT A STUDY OF THE FEASIBILITY OF ESTABLISHING STATE-OPERATED COMPUTER CENTERS TO SERVE COUNTY AND CITY GOVERNMENTS.

Whereas, the demand for services from the counties of North Carolina by its citizens continues to increase in scope and urgency; and

Whereas, the information reporting requirements being levied on the county governments by the departments of State government and the federal government continue to increase; and

Whereas, the counties and cities more and more are called upon to act as the official arm for delivering State and federal programs and services to the citizens of the State; and

Whereas, the responsiveness of the county and city governments is improved by the use of modern but increasingly expensive business technology; and

Whereas, the proper use of computers, telecommunications, and data processing techniques is basic to modern business technology; and

Whereas, it appears that many counties and cities are financially and technically unable to take full advantage of this technology; and

Whereas, it has been demonstrated in North Carolina general State

government and in the State's university system that the sharing of computing facilities and experienced personnel is both cost effective and more efficient;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the Department of Administration, Office of Management Systems, be requested to conduct an in-depth study to determine the feasibility of establishing an appropriate number of regional State-operated computer centers or private contracted data centers to serve the needs of the counties and cities, particularly in the areas of tax administration, payroll and personnel, and other financial information systems. Interrelationships and the need for improved technology of county and municipal operations are to be investigated and given proper consideration.

Sec. 2. That the department report in writing its findings and recommendations to the General Assembly at its next convening or as soon thereafter as practicable.

Sec. 3. That a Steering Committee be established to regularly review progress of and counsel with the department in the conduct of the study and that such committee shall be composed of the following members:

The Secretary of the Local Government Commission of the Department of the State Treasurer - Chairman.

The Executive Directors of the North Carolina Association of County Commissioners and the League of Municipalities.

Two members of the General Assembly; one to be designated by the Speaker of the House and one by the President of the Senate.

Two members of County Governments to be invited by the Chairman.

Two members of city governments to be invited by the Chairman.

Two members of the private sector with recognized competency in the field of computing and data processing to be invited by the Chairman.

A member of the Systems Division of the Office of the State Auditor to be designated by the State Auditor.

The Director of the Office of Management Systems shall serve as secretary to the committee.

Sec. 4. That the department and the committee may freely call upon the knowledge and experience of any employees of State government, the higher education community, the county governments, and municipalities.

Sec. 5. That actual and necessary expenses of the department are authorized by the General Assembly from funds which may be available from within the Department of Administration, from receipts from non-State sources, or from the Contingency and Emergency Fund pursuant to G.S. 143-12.

Sec. 6. That members of the Steering Committee who are not full-time State employees shall be paid a per diem in accordance with G.S. 138-5 for days actually on official business of the committee and travel expenses at a rate the same as allowed similar boards and committees.

Sec. 7. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

S. R. 624 **RESOLUTION 113**

A JOINT RESOLUTION DIRECTING THE LEGISLATIVE RESEARCH COMMISSION TO STUDY LOCAL MASS TRANSIT.

Whereas, it is the sense of the General Assembly that we are rapidly approaching the point in time where the forces of increasing population and decreasing energy supplies will make past transportation practices impractical and costly, it is hereby declared to be the public policy of the State of North Carolina that programs be developed which will provide safe, economical, and efficient modes of mass transportation for the citizens of our State;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. (a) The Legislative Research Commission is directed to study Local Mass Transit.

(b) It shall be the duty of the commission to make a study of local mass transit problems, and to determine the feasibility of implementing local mass transit programs in this State.

Sec. 2. The Cochairmen of the Legislative Research Commission are authorized to appoint additional members of the General Assembly to study committees to assist the regular members of the Research Commission in conducting this study, and they are authorized to appoint members of the public to advisory subcommittees. The President Pro Tempore of the Senate shall consult with the President of the Senate when he considers these additional appointments.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

S. R. 920 **RESOLUTION 114**

A JOINT RESOLUTION SETTING A HIGH PRIORITY FOR CONSIDERATION OF REVISING THE RETIREMENT SYSTEM OF LOCAL GOVERNMENT EMPLOYEES DURING THE 1976 SESSION OF THE GENERAL ASSEMBLY, SO THIS RETIREMENT SYSTEM WILL OFFER BENEFITS MORE NEARLY EQUAL TO THOSE INCLUDED IN THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM.

Whereas, Chapter 457 of the 1975 Session Laws amended G.S. 135-1(5) to provide that "average final compensation" would be computed on the basis of four, instead of five, consecutive years of membership in the Retirement System for Teachers and State Employees; and

Whereas, Chapter 457 of the 1975 Session Laws amended G.S. 135-5 to provide that compensation paid to teachers and State employees who retire after age 65 or after completing 30 years of service shall be computed at a rate of one and one-half percent (1 1/2%) of the average final compensation multiplied by the number of years of creditable service and that the rate of compensation paid to teachers and State employees who retire before age 65 and prior to completing 30 years of service shall be computed in the same way, except that their retirement allowance shall be reduced by one quarter of one percent (1/4 of 1%) for each month by which their retirement dates precede the first day of

the month coincident with or next following their sixty-fifth birthdays, representing an increase in the percentage of compensation paid to teachers and State employees; and

Whereas, Chapter 457 of the 1975 Session Laws amended G.S. 135-8(b)(1) to provide that after July 1, 1975, the rate of payroll deductions for the Annuity Savings Fund of teachers and State employees shall be six percent (6%); and

Whereas, similar changes were not incorporated into Chapter 486 of the 1975 Session Laws, entitled "An Act Extending Benefits of the North Carolina Local Governmental Employees' Retirement System", so that local government employees will not receive retirement compensation at the same rate provided for teachers and State employees;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That a high priority be given by the 1976 Session of this General Assembly to amending Chapter 128 of the General Statutes so that the Local Governmental Employees' Retirement System will offer benefits more nearly equal to the benefits provided for teachers and State employees by Chapter 457 of the 1975 Session Laws.

Sec. 2. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. R. 1251 RESOLUTION 115

A JOINT RESOLUTION HONORING ROBERT CAMPBELL RIVERS, JR., OF WATAUGA COUNTY.

Whereas, a distinguished North Carolinian, Publisher Robert Campbell Rivers, Jr., died April 23, 1975; and

Whereas, he was born November 2, 1899, in Boone; entered his father's newspaper business as a child apprentice at age six; published his own tabloid "The Democrat Jr." at age eight; became a journeyman printer as a youth and traveled through the west, ultimately returning to North Carolina, and marrying his wife, the former Bonnie Jean Lewis; and

Whereas, in 1933 he became the publisher of "The Watauga Democrat" in Boone; and thereafter served also in many executive capacities such as member of the Board of Directors of the Northwestern Bank of Boone, vice-president of the Watauga Savings and Loan Association, member of the Board of Directors of the North Carolina Press Association, director of the Journalism Foundation at UNC-Chapel Hill, and also became publisher of "The Blowing Rocket" in Blowing Rock and "The Avery Journal" in Newland; and

Whereas, his regular column "King Street" was a noted source of sound and thoughtful comment; and his newspapers were an independent spokesman for the needs and views of northwest North Carolina:

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That by this resolution the General Assembly recognizes that with the death of Robert Campbell Rivers, Jr., the State of North Carolina has lost a distinguished citizen; and therefore expresses its sympathy to his family in their time of loss.

Sec. 2. That a copy of this resolution shall be duly certified by the Secretary of State and shall be transmitted by him to the family of Robert Campbell Rivers, Jr.

Sec. 3. That this resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. R. 1258

RESOLUTION 116

A JOINT RESOLUTION HONORING JOHN J. CRAWFORD, JR., WHO WAS INJURED WHILE INTERVENING TO ASSIST A POLICE OFFICER IN DANGER.

Whereas, John J. Crawford, Jr., of Wadesboro, North Carolina, is a service manager with Crawford Motor Company; and

Whereas, he has perennially exhibited outstanding civic consciousness as exemplified by his participation in the Jaycees; and

Whereas, John J. Crawford, Jr., and his fiance on Sunday morning at eleven o'clock on November 23, 1973, were returning to Wadesboro after having cleaned the premises at which a pageant-related Jaycee party was held following the Miss Anson County Pageant the previous night; and

Whereas, they saw a Highway Patrol car which was pulled off the side of the road, and as they passed, they could see the officer struggling with another man; and

Whereas, John J. Crawford, Jr., pulled off the road and approached the patrol car on the passenger side, where the door was opened, and asked the officer if he needed assistance to which he got an affirmative response; and

Whereas, the officer and the person the officer was attempting to apprehend were struggling for the possession of a pistol, with the would-be prisoner in apparent command; and

Whereas, John J. Crawford, Jr., attempted to separate them and at the same time to seize the weapon, which was being waved about by the prisoner; and

Whereas, John J. Crawford, Jr., was shot twice before the prisoner escaped, and was unable to work for 24 weeks, incurring six thousand dollars ($6,000) in medical expenses;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That this General Assembly does hereby commend John J. Crawford, Jr., for his outstanding act of heroism and his supreme sacrifice.

Sec. 2. That this General Assembly acknowledges John J. Crawford, Jr., as the type of outstanding North Carolinian who has historically contributed to the greatness of this State and this Nation.

Sec. 3. That this resolution shall be incorporated in the permanent records of this General Assembly as a tribute to the contribution of John J. Crawford, Jr., to the State of North Carolina, and a copy thereof be furnished to John J. Crawford, Jr., and his parents Mr. and Mrs. John J. Crawford, Sr.

Sec. 4. That this resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1975.

H. R. 1116 **RESOLUTION 117**

A JOINT RESOLUTION REQUESTING THE NORTH CAROLINA BUILDING CODE COMMISSION AND THE COMMISSIONER OF INSURANCE OF NORTH CAROLINA DEVELOP AND ADOPT A BUILDING CODE TO BE FOLLOWED IN THE DESIGN, CONSTRUCTION, ALTERATION, OR IMPROVEMENT OF ALL STAIRWAYS OR STEPS IN PUBLIC BUILDINGS THAT ARE USED BY HANDICAPPED PERSONS IN NORTH CAROLINA.

Whereas, the General Assembly of North Carolina has determined the need for a North Carolina Building Code Council by the enactment of Article 9 of Chapter 143 of the General Statutes of North Carolina that provides for a Building Code Council and building code; and

Whereas, the General Assembly of North Carolina has recognized the rights of handicapped persons to the full and free use of the streets, highways, sidewalks, walkways, public buildings, public facilities, and all other buildings and facilities, both publicly and privately owned, which serve the public; and

Whereas, the General Assembly of North Carolina has inaugurated many programs and endeavors that speak to the special needs and concerns of handicapped persons in their efforts to live a normal and productive life as useful citizens in an environment primarily built for the physically fit; and

Whereas, the General Assembly of North Carolina believes that additional designs and improvements can be accomplished to aid and assist handicapped persons in buildings used or intended for use by the public, irrespective of whether they are publicly or privately owned, through the modification of features involving markings, impressions, inscriptions, emblems, signals, or other forms of identification to give warning to the handicapped; and

Whereas, there are now in North Carolina, State agencies and divisions that know of the special needs of the handicapped that would welcome an opportunity to speak to the special needs of the handicapped in working toward a barrier free society and thereby benefit all society.

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly of North Carolina requests the North Carolina Building Code Council and the Commissioner of Insurance of North Carolina undertake to develop a building code in accordance with State law that will give warning to the handicapped by marking the front edges of all stairways or steps in buildings used or intended for use by the public; irrespective of whether they are publicly or privately owned.

Sec. 2. That the North Carolina Building Code Council and the Commissioner of Insurance seek the counsel, advice, and recommendations of the Governor's Council on the Employment of the Handicapped, the Governor's Council on Developmental Disabilities, the Division of Facility Services, the Division of Services for the Blind, and the Division of Vocational Rehabilitiation of the Department of Human Resources and other State agencies and divisions in the development of this building code.

Sec. 3. That the North Carolina Building Code Council and the Commissioner of Insurance report the action of the study and the adoption of the respective building code to the Speaker of the House of Representatives and

the Lieutenant Governor within 30 days following the convening of the 1977 General Assembly of North Carolina.

Sec. 4. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of June, 1975.

H. R. 1195 RESOLUTION 118

A JOINT RESOLUTION TO PROVIDE FOR THE WISE DEVELOPMENT OF THE WATER RESOURCES OF THE STATE OF NORTH CAROLINA FOR THE ECONOMIC AND OVERALL WELL-BEING OF ITS CITIZENS, AND TO PROVIDE FOR THE ESTABLISHMENT OF A PROCEDURE FOR THE PRIORITY BUDGET PROGRAMMING FOR THE STATE SHARE OF THE COST OF THE CONSTRUCTION, MANAGEMENT AND OPERATION OF SUCH PROJECTS.

Whereas, the wise development of the water resources of the State is essential to industry and other uses necessary for the economic well-being and development of the State; and

Whereas, water resources development projects provide municipal water supply which includes the water necessary for domestic and other essential uses by its citizens; and

Whereas, water resources projects provide for the sustenance and habitat for fish and wildlife and for other water based recreational activities for the enjoyment of its citizens; and

Whereas, water resources projects are essential for the protection of the life, health and property of its citizens against disastrous flood and droughts;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Legislative Research Commission is hereby directed to conduct a study on the following matters:

(1) To establish a procedure for obtaining State approval of public works projects as proposed by federal and other governmental and private agencies. Such procedures should distinguish between major and minor projects and establish different procedures for dealing with each.

(2) To evaluate present practices with respect to the split between State and local portions of the nonfederal share of projects and recommend a feasible formula for varying degrees of State participation based upon the nature and distribution of benefits to State, local or private interests.

(3) To establish a procedure for the budgetary programming for the State's share of the cost of these projects.

(4) To evaluate such other aspects of the problem as are relevant and report recommendations on these.

Sec. 2. The Legislative Research Commission shall submit an interim report to the General Assembly of its study and recommendations, if any, on or before January 15, 1976, and a final report on or before January 15, 1977.

Sec. 3. This resolution shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 25th day of June, 1975.

S. R. 40 **RESOLUTION 119**

A JOINT RESOLUTION DIRECTING THE LEGISLATIVE RESEARCH COMMISSION TO STUDY THE FEASIBILITY OF CONSTRUCTING AND FINANCING IN NORTH CAROLING UPON A SELF-SUPPORTING BASIS OR OTHERWISE A SPORTS FACILITY TO PROVIDE THE PEOPLE OF THIS STATE WITH A FACILITY WHICH WILL BE COMPETITIVE WITH THOSE FACILITIES WHICH HAVE BEEN CONSTRUCTED OR WILL BE CONSTRUCTED.

Whereas, North Carolina has a number of institutions of higher education with outstanding varsity athletic programs; and

Whereas, many North Carolina citizens and visitors to our State, both alumni and nonalumni, develop strong team loyalties and have a continuing interest in attending athletic events featuring North Carolina teams; and

Whereas, in the sport of basketball particularly North Carolina colleges and universities consistently have attracted great national interest; and

Whereas, the demand for sports facilities for both spectators and participants is greater than the existing facilities can satisfy; and

Whereas, the largest indoor sports facility in the State seats no more than 16,000 persons; and

Whereas, the quality of our sports facilities will continue to affect our State's continued growth;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The Legislative Research Commission is directed to study the feasibility of constructing in North Carolina, and financing a sports arena of sufficient capacity to serve the people of this State and its future growth.

Sec. 2. The Commission's study may include, but need not be limited to, the following:

(1) Planning by major institutions of higher education as to their athletic programs and potential attendance figures, including plans for the construction or alteration of sports facilities.

(2) Plans by any municipalities or other governmental subdivisions concerning major entertainment or sports facilities.

(3) Analysis of economic factors in the operation of major indoor sports facilities, including the need, (if any), for an amateur or professional home team having substantial local support, the density of population within a given area to support facilities of varying sizes, the extent to which facilities suitable for major team sports may readily be used for entertainment and other nonsports public events, and the revenue implications of multiple use.

(4) The extent to which construction of a large covered sports arena would seriously undermine the patronage now enjoyed at major indoor and outdoor sports facilities in the State.

(5) Consideration of the various factors that would affect the site of any sports arena that might be built.

(6) A consideration of the most effective method of administering the operations of any sports arena that might be built—for example, a public authority, lease to a commercial enterprise to operate, or otherwise.

(7) Technical and legal factors concerning the possible financing, through

bonds or otherwise, of a sports arena, and the extent to which any such sports arena at a given location may be expected to pay its way.

(8) Estimates of construction costs of the various types of sports arena that might be built and the cost-benefit factors that may be involved, including whether the greater revenues that may be anticipated from a genuinely multi-purpose structure would likely offset the greater construction and maintenance costs that would be involved.

Sec. 3. The Cochairmen of the Legislative Research Commission are authorized to appoint additional members of the General Assembly to study committees to assist the regular members of the Research Commission in conducting this study, and they are authorized to appoint members of the public to advisory subcommittees. The President Pro Tempore of the Senate shall consult with the President of the Senate when he considers these additional appointments.

Sec. 4. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of June, 1975.

S. R. 749 **RESOLUTION 120**

A JOINT RESOLUTION EXTENDING THE COMMISSION ON SENTENCING, CRIMINAL PUNISHMENT AND REHABILITATION.

Whereas, the 1973 General Assembly recognized an immediate need to study and evaluate the problem of prison overcrowding by creating during the 1974 Session a Commission on Sentencing, Criminal Punishment and Rehabilitation; and

Whereas, that commission has met regularly since June 1974, and has through public meetings, expert testimony, personal visits across the State and in-depth research and evaluation made much headway in gaining a comprehensive understanding of the various aspects of this most complex area of public concern; and

Whereas, that commission has provided the 1975 General Assembly an enlightened overview of this issue by preparing and distributing three separate official reports as well as copies of its staff research findings including reports from other states as well as statistical documentation of North Carolina's criminal justice system; and

Whereas, the recommendations of the sentencing commission are supported by the introduction of 17 separate pieces of legislation which are now being acted upon by this General Assembly; and

Whereas, that commission has, due to the crisis-like situation currently existing within the prison system, been forced to deal primarily with those sentencing statutes as well as policies and practices which impact most directly upon entry into the prison system, length of retention within the system and release from the system; and

Whereas, in dealing with these short-range sentencing considerations the commission has effectively discharged the first of its two primary obligations which required new legislative proposals to govern: "Policies, plans, practices and procedures including alternatives to existing practices and procedures which are designed to have the effect of reducing the prison population of the State of North Carolina and its heavy economic burden, consistent with the well-being and security of the general population,"; and

Whereas, the commission has recognized the need for completing the second primary obligation placed on it by the General Assembly by recommending a long-range study of State policy in regard to the construction of new facilities, the development of comprehensive rehabilitative programs and the relief from inmate idleness throughout the system; and

Whereas, Senate Joint Resolution 24 has been introduced calling for a special legislative study of educational, vocational and rehabilitative programs available to females committed to the custody of the Department of Correction; and

Whereas, the commission on sentencing has begun such an evaluation by personal visits to that facility and by receiving testimony from State officials involved in the administration of such programs as are now available at that facility; and

Whereas, the General Assembly commends the sentencing commission for its valuable service in developing short-range alternatives to help relieve the serious overcrowding within North Carolina's prison system, and recognizes the valuable expertise developed during the course of its study, as well as the continued need for providing long-range planning for rehabilitative, correctional programs for both male and female inmates;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The Commission on Sentencing, Criminal Punishment and Rehabilitation is hereby relieved from all duties and responsibilities as set forth in Section 2 of Senate Joint Resolution 1268 as enacted by the 1974 Session of the 1973 General Assembly and is hereby redesignated as the Commission on Correctional Programs.

Sec. 2. Duties. (a) It shall be the responsibility of the Commission on Correctional Programs to develop a comprehensive long-range policy recommendation setting forth a coordinated State policy on correctional programs. The policy recommendation thus developed shall reflect and be incorporated into a basic philosophical approach toward inmate rehabilitation and shall apply equally for both male and female inmates. The commission shall conduct hearings, gather information and personally inspect such rehabilitative programs as may be currently in operation by the Department of Correction; and shall study and evaluate as many additional programs from other systems, either local, State or federal, as it may deem necessary, for the fulfillment of its responsibilities under the provisions of this resolution. The commission is directed to give specific attention to: work release, study release, vocational training (both within the system and in conjunction with the community college system), basic adult education, drug and alcohol treatment, mental retardation treatment, counseling, religious and recreational programs. Special attention should also be given to work-related programs designed to relieve idleness within the system, such as prison enterprises, incentive wage community service projects, road work programs or others as are or may be authorized as appropriate for inmate labor.

(b) The Commission on Correctional Programs shall also be authorized and directed to study the physical facility needs and requirements including the number, type and size of prison units desirable to maintain effective security, promote rehabilitative programs and insure efficient allocation of the

department's resources. Considerable study should be directed toward the need for new construction, conversion or temporary expansion of existing facilities to meet the need for single cell accommodations throughout the system. The commission should also study the correctional facilities available at Women's Prison in Raleigh and issue findings on the adequacy of such facilities and recommendations as may be supported by those findings for up-grading, expanding or otherwise altering the facilities for female inmates in North Carolina.

(c) The Commission on Correctional Programs shall, not later than 15 days following the opening of the 1976 Session of the 1975 General Assembly or in the event no such session is convened not later than 15 days following the opening of the 1977 General Assembly, file a final report of the commission with the Governor, the President and President pro tempore of the Senate and the Speaker of the House of Representatives which shall include the long-range policy recommendations for correctional programs and facilities for both male and female systems as stipulated under the provisions of this resolution. The final report shall include a summary of all information obtained in the course of its inquiry, and shall set forth its findings, conclusions, and recommendations. If legislation is recommended, the commission shall prepare and submit with its report the appropriate bills.

Sec. 3. Membership. (a) The present membership of the Commission on Sentencing, Criminal Punishment and Rehabilitation is hereby directed to serve as the Commission on Correctional Programs and to meet at such times and places as it may deem necessary to fulfill its responsibilities as defined and enumerated in Section 2 of this resolution.

(b) To insure coordination and to prevent duplication of effort in developing a comprehensive plan of correctional programs, the Commission is hereby authorized to meet jointly with the Commission on Correctional Programs for Females as authorized by House Joint Resolution 20. It is the intent of the General Assembly that these Commissions, working together, shall develop and recommend significant legislation dealing with the problem of program development for both male and female inmates in North Carolina's Division of Prisons.

(c) If a vacancy occurs in the membership of the commission, it shall be filled by action of the officer who appointed the former member who is to be replaced, and the person then appointed shall serve for the remainder of the term of the member whom he succeeds.

Sec. 4. Funding. In executing its duties, the commission is authorized to hire and salary one professional employee and one secretarial employee. Commission members are authorized to receive per diem and mileage at the statutory rates in lieu of compensation. All equipment and supplies as are now owned, leased or otherwise used by the Commission on Sentencing, Criminal Punishment and Rehabilitation are hereby transferred to the Commission on Correctional Programs. The unexpended funds appropriated to cover the authorized costs of the Commission on Sentencing, Criminal Punishment and Rehabilitation are hereby transferred to the Department of Administration for the use of the Commission on Correctional Programs and may be used to cover such operational costs as are provided for herein. Additional sums of twelve thousand five hundred dollars ($12,500) for fiscal year 1975-76 and twelve thousand five hundred dollars ($12,500) for fiscal year 1976-77 are hereby

appropriated from the General Fund to the Department of Administration for the same purposes. The commission shall seek the aid of the Fiscal Research Division of the Legislature in setting up a study methodology and for purposes of periodic review.

Sec. 5. (a) The commission shall terminate upon the filing of its report.

(b) Upon the termination of the commission, the chairman shall transmit to the Legislative Library for preservation the records and papers of the commission.

Sec. 6. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.

H. R. 1283 RESOLUTION 121

A JOINT RESOLUTION PROVIDING FOR ADJOURNMENT OF THE 1975 GENERAL ASSEMBLY ON THE TWENTY-SIXTH DAY OF JUNE, 1975, AT 7:00 P.M. TO RECONVENE FOR A SECOND SESSION IN 1976 FOR REVIEW OF THE BUDGET FOR FISCAL YEAR 1976-77.

Whereas, due to the uncertainty of the national economy, it is extremely difficult to project revenue collections even for the fiscal year 1975-76 and more difficult to project revenue collections for the fiscal year 1976-77; and

Whereas, it is the sincere hope of the General Assembly that the economy of this country and the State will take a sharp upturn in the near future and that reductions in certain of the State's services effectuated in the 1975-76 budget may be restored; and

Whereas, for the above reasons, it is deemed advisable that the General Assembly reconvene in 1976 for the sole purpose of reviewing the budget for fiscal year 1976-77 and for handling such matters as directly affect the budget and for no other purpose;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That on June 26, 1975, at 7:00 p.m. both the Senate and the House of Representatives shall stand adjourned to meet again on May 3, 1976, at 12 o'clock noon for a session not to exceed 30 calendar days.

Sec. 2. That when the Senate and House reconvene pursuant to Section 1 of this resolution, they shall consider only bills and resolutions directly affecting the budget for the fiscal year 1976-77; provided, that after ratification of a joint resolution passed by a two-thirds majority in each body, the Senate and House may also consider any matters authorized by that resolution.

Sec. 3. That upon authorization of the presiding officer of each house, the appropriate committees of that house, together with the presiding officer of that house are authorized to convene in the interim to review the budget for fiscal year 1976-77 as passed by the 1975 General Assembly, First Session 1975, and other matters of appropriations, finance and the general economy, and to prepare a report on these matters, including a revised budget for 1976-77, if necessary, for delivery to the Senate and House on the convening date of the General Assembly in 1976.

Sec. 4. That the presiding officers and committees of the House and Senate may make an interim report on the state of the economy and the budget prior to the convening of the 1975 General Assembly, Second Session 1976.

Sec. 5. This resolution shall take effect upon its ratification.

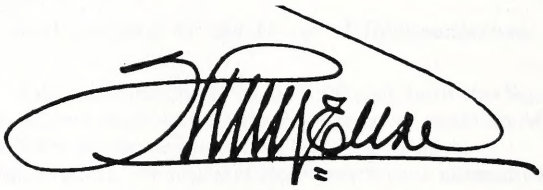
In the General Assembly read three times and ratified, this the 26th day of June, 1975.

STATE OF NORTH CAROLINA

DEPARTMENT OF STATE,

RALEIGH, AUGUST 29, 1975

I, THAD EURE, Secretary of State of North Carolina hereby certify that the foregoing volume was printed under the direction of the Legislative Services Commission from ratified acts and resolutions on file in the office of the Secretary of State.



Secretary of State

NUMERICAL INDEX TO SENATE AND HOUSE BILLS

RATIFIED NUMBER refers to Chapter Number except when preceded by an R, in which case it refers to Resolution Number.

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